WYOMING COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

AND

NY BENNINGTON I, LLC

AGENCY LEASE AGREEMENT

Dated as of September 12, 2025

(2025 NY Bennington I, LLC Project)

TABLE OF CONTENTS

EXHIBITS

AGENCY LEASE AGREEMENT

THIS AGENCY LEASE AGREEMENT (this "Agreement"), made and entered into as of the 12th day of September, 2025, by and between WYOMING COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency"), a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York, with an office at 36 Center Street, Suite D, Warsaw, New York 14569, and NY BENNINGTON I, LLC (the "Company"), a New York limited liability company, with an office at 228 Aviation Avenue, Suite 200, South Burlington, Vermont 05403.

RECITALS:

1. The New York State Industrial Development Agency Act, 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") authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to promote, develop, encourage and assist in the acquiring, construction, reconstruction, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities including industrial pollution control facilities and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living.

2. Pursuant to and in accordance with the provisions of the Enabling Act, the Agency was established by Chapter 343 of the 1974 Laws of New York, as amended, for the benefit of the County of Wyoming and inhabitants thereof.

3. To accomplish the purposes of the Act (as hereinafter defined) and to provide certain tax exemptions and abatements to the Company, the Company has previously submitted an application to the Agency with respect to a certain project (the "Project") consisting of: (i) the construction and equipping of a 2.063 megawatt (MW) (AC) solar photovoltaic electric generating facility comprised of racking, solar modules, inverters, electrical wiring and other system components (the "Improvements"); and (ii) the acquisition of a leasehold interest in a 13.364+/- acre parcel of land located at 1667 Church Road in the Town of Bennington, Wyoming County, New York (a portion of SBL No. 4.-1-3.1) (the "Premises").

4. On November 14, 2024, the Agency adopted a resolution, which resolution authorized the Company to proceed with the Project and authorized the execution and delivery of this Agreement.

5. The Agency and the Company previously entered into that certain Project Agreement dated as of May 2, 2025, pursuant to which the Company has undertaken to construct and equip the Project.

6. The Agency, based upon representations and warranties of the Company contained in this Agreement and the information contained in the application of the Company and other material heretofore submitted by or on behalf of the Company to the Agency, hereby finds and

determines that the acquisition of an interest in the Project by the Agency and the leasing thereof to the Company is reasonably necessary to accomplish the purposes of the Act.

7. The Company has proceeded with the Project pursuant to the said inducement resolution and the Project Agreement.

8. The Company will provide the funds necessary to complete the Project without requiring the issuance of a bond by the Agency.

9. The real property upon which the Project will be constructed is currently leased by the Company as more specifically set forth in Exhibit C attached hereto and made a part hereof, and will be leased to the Agency concurrently with the execution of this Agreement pursuant to the Company Lease (as hereinafter defined).

10. The parties wish to set forth their relationship which will enable the continuation, completion and operation of the Project, in furtherance of the corporate and public purposes of the Agency.

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties agree as follows:

ARTICLE I

DEFINITIONS

The following terms shall have the following meanings in this Agreement:

"Act" shall mean, collectively, the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York), as amended, and Chapter 343 of the 1974 Laws of New York, as amended.

"Additional Rent" shall mean PILOT payments, Impositions, utility bills relative to the Project, insurance premiums or other sums paid by the Agency on behalf of the Project.

"Agency" shall mean Wyoming County Industrial Development Agency, a public benefit corporation organized under Article 18-A of the General Municipal Law of the State with its office at 36 Center Street, Suite D, Warsaw, New York 14569.

"Agency's Reserved Rights" means:

(1) the right of the Agency in its own behalf to receive all opinions of counsel, reports, financial statements, certificates, insurance policies or insurance binders or certificates, or other notices or communications required to be delivered to the Agency under this Agreement and to receive all amounts payable to the Agency under this Agreement;

(2) the right of the Agency to grant or withhold any consents or approvals required of the Agency under this Agreement;

(3) the right of the Agency to enforce in its own behalf the obligation of the Company to complete the Project and to otherwise comply with the provisions of this Agreement;

(4) the right of the Agency to enforce or otherwise exercise in its own behalf all agreements of the Company contained in this Agreement, including but not limited to those with respect to ensuring that the Project shall always constitute a qualified "project" as defined in and as contemplated by the Act;

(5) the right of the Agency to amend with the Company this Agreement or the PILOT, and the right of the Agency to enforce, receive amounts payable under or otherwise exercise its rights or remedies thereunder or under the Environmental Compliance Agreement;

(6) the right of the Agency in its own behalf to declare an Event of Default under Section 16.1 of this Agreement or the PILOT, and to exercise its remedies hereunder or thereunder;

(7) the right of the Agency to be defended and indemnified pursuant to Article XVIII of this Agreement and the right to receive payment under Article XIII of this Agreement; and

(8) the right of the Agency as to any of the above, exercisable with respect to any sublessees.

"Agreement" shall mean this Agency Lease Agreement dated as of September 12, 2025, between the Agency and the Company and shall include any and all amendments hereafter made.

"Application for Tax Exemption" shall mean the Industrial Development Agencies Application for Real Property Tax Exemption required under Section 412-a of the New York Real Property Tax Law.

"Assessor" shall mean the assessor for the Town.

"Company" shall mean NY Bennington I, LLC, a New York limited liability company.

"Company Lease" shall mean the Company Lease dated as of even date herewith between the Company and the Agency and shall include any and all amendments hereafter made.

"County" shall mean the County of Wyoming, New York.

"Eligible Sublessee(s)" shall mean such sublessees as are eligible for tax abatement pursuant to the Act and the Agency's eligibility policy in effect from time to time, as determined by the Agency in its sole and absolute discretion.

"Environmental Compliance Agreement" shall mean that certain Environmental Compliance and Indemnification Agreement dated as of even date herewith, from the Company to the Agency, and shall include any and all amendments hereafter made.

"Equipment" shall mean the equipment, if any, described in Exhibit B annexed hereto.

"Exempt Property" shall mean only tangible personal property conveyed to or acquired by the Agency in accordance with Section 3.1 of this Agreement which is acquired, on or before the completion date for the Project as set forth in Section 5.4 of this Agreement, for incorporation in the Project or for use in connection therewith.

"Event of Default" shall have the meaning specified in Article XVI hereof.

"Expiration Date" shall mean the earlier of (i) December 31, 2046, (ii) termination of this Agreement by the Agency as provided for in Article XVI of this Agreement, or (iii) termination of this Agreement by the Company upon exercise of its option to purchase pursuant to Article VI of this Agreement; provided, however, in the event there is a modification to the PILOT, the Expiration Date shall be modified accordingly.

"Impositions" shall mean any special assessments, such as user charges, fire protection, water, utility or sewer charges, or other governmental charges customarily charged to all users on a nondiscriminatory basis, but excluding the PILOT payments and Real Estate Taxes.

"Permitted Exceptions" shall mean conditions of title to which the leasehold interest shall be subject (and to which the Project will be subject upon termination of the Agency's interest therein pursuant to Article VI or upon conveyance of the Project to the Company under Article II) as set forth in Exhibit D annexed hereto.

"PILOT" shall mean the Agreement for Payment in Lieu of Real Estate Taxes dated as of even date herewith between the Agency and the Company providing for payments in lieu of real property taxes (other than Impositions) with regard to the Project.

"Premises" shall mean the real property described in Exhibit A annexed hereto and the improvements located or to be located thereon, and subject to the Permitted Exceptions described in Exhibit D annexed hereto, and the leasehold improvements (items so affixed to the realty as cannot be removed without damage to the realty), and any replacements, structures, improvements, substitutions and additions thereto, acquired, constructed and installed as provided in this Agreement.

"Project" shall mean the undertaking described in Exhibit E ("Description of the Project"), or the Premises and the Equipment used in that connection, as may be indicated by the context.

"Real Estate Taxes" shall mean all general levy real estate taxes levied against the Project by the Town, the County and the School District.

"Resolution" shall mean the resolution adopted by the Agency on November 14, 2024, with respect to the Project.

"Sales Taxes" shall mean any tax(es) imposed by Article 28 of the New York Tax Law, as the same may be amended from time to time.

"School District" shall mean the Attica Central School District.

"SEQRA" shall mean, collectively, the State Environmental Quality Review Act of New York, as amended together with regulations promulgated thereunder.

"State" shall mean the State of New York.

"Taxable Status Date" shall mean March 1, 2026.

"Town" shall mean the Town of Bennington, New York.

ARTICLE II

DEMISE; PREMISES; TERM

2.1 Demise. The Agency hereby leases to the Company, and the Company hereby leases from the Agency, the Project herein described for the stated term for the rents, covenants and conditions set forth herein subject only to the Permitted Exceptions. The Company and the Agency acknowledge that the Project and the interest therein conveyed to the Agency pursuant to the Company Lease and the interest conveyed by the Agency back to the Company pursuant to this Agreement are not "property" as defined in Section 2895 of the New York Public Authorities Law because the Project and the leasehold interests therein secure the Company's obligations under this Agreement, the PILOT and the Environmental Compliance Agreement, including the Company's obligation to acquire, construct, acquire, equip and maintain the Project.

2.2 Description of Project Leased. The leased Project is that described in Article I of this Agreement and as more fully described on Exhibits A, B and E.

2.3 Term. The Project is leased for a term which shall commence as of the date of this Agreement, and shall end on the Expiration Date, unless this Agreement shall sooner terminate pursuant to any of the terms, covenants or conditions of this Agreement or pursuant to law. Provided, however, that in the event the term of the PILOT Agreement is extended for any reason, the term of this Agreement shall be extended accordingly.

2.4 Mandatory Conveyance. At the expiration of the term hereof or any extension thereof by mutual agreement, or as otherwise provided in Article XVI herein, the Agency shall convey the Project to the Company and the Company hereby unconditionally agrees to accept the conveyance of the Project by the Agency. Conveyance shall be by termination of the Company Lease and this Agreement. The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing, delivering and recording lease termination agreements together with any other documents therewith and to take such other and further actions reasonably necessary to complete the termination of the Agency's interest in the Project. The Company shall be responsible for all costs incurred in connection with such termination including, without limitation, recording fees, search and survey charges and the reasonable attorneys' fees of the Agency.

ARTICLE III

CONDITIONS PRECEDENT

3.1 Acquisition of a Leasehold Interest in the Project by Agency. Acquisition of a leasehold interest in the Project by the Agency is a condition precedent to the Agency's obligations under this Agreement. The Company shall cause to be conveyed to the Agency at the time of the delivery hereof, good and marketable leasehold title to the Project site, free and clear of all liens, claims, encumbrances and servitudes upon the fee simple and leasehold estates, except current taxes not yet due (and except those matters affecting the title set forth in a certificate of title acceptable to counsel for the Agency), including any buildings, structures, improvements and related facilities and any fixtures, and any other Permitted Exception. The consideration paid therefor by the Agency shall be One and No/100 Dollar ($1.00) and other good and valuable consideration (which amount does not include the cost of the renovation of the Project).

3.2 Compliance with SEQRA by the Company. Submission of the Environmental Assessment Form by the Company to the Agency in form and content reasonably acceptable to the Agency and its counsel to enable the Agency to comply with SEQRA with respect to the Project is a condition precedent to the Agency's obligations under this Agreement.

3.3 Restrictions Against Retail Sales. The Company represents, warrants and covenants that no portion of the facilities or properties will be used in making retail sales to customers. For purposes of this Section 3.3, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York primarily engaged in the retail sale of tangible personal property, as defined in Section 1101(b)(4)(i) of the Tax Law of the State of New York; or (ii) sales of a service to such customers.

ARTICLE IV

AGENCY'S OBLIGATIONS

4.1 Quiet Enjoyment. Provided the Company shall pay the rent and all other sums payable by it under this Agreement and shall duly observe all the covenants, stipulations and agreements obligatory upon it, the Agency covenants that it will not interfere with the Company's peaceful, quiet and undisputed possession of the Premises.

ARTICLE V

THE COMPANY'S OBLIGATIONS

5.1 Employment Information. The Company shall furnish promptly to the

Agency such information, in such form and supported by such certifications, as the Agency shall reasonably request or as shall be required by the Agency to comply with any requirements of any governmental or regulatory agency, authority, office or department, relating to the Company or any other sublessee (including, but not limited to, a schedule listing any existing sublease and sublessee, along with such information regarding such subleases and sublessees as the Agency may request), the Project, the finances of the Company, and employment by the Company and any other sublessee (past, present and future).

5.2 Construction of the Project.

(a) The Company as agent of the Agency will, subject to the provisions hereof, cause to be constructed and renovated on said real property and interests therein described in Exhibit A hereto, certain improvements (substantially in accordance with plans and specifications therefor prepared by or on behalf of the Company, to be maintained by the Company and made available by the Company for inspection by the Agency, with such changes and substitutions as may be reasonably desired by the Company), along with such Equipment to be acquired and installed therein. The cost of such acquisition, renovation, construction and installation shall be paid by the Company. All contractors, materialmen, vendors, suppliers and other companies, firms or persons furnishing labor, services or materials for or in connection with the Project shall be designated by the Company.

(b) In order to accomplish the purposes of the Agency, and to assure the acquisition, renovation, construction and installation of the Project in conformity with the requirements of the Company, the Company has undertaken to proceed with the design of the Project, the preparation of the site and the acquisition, renovation, construction and installation of the Project. The Company agrees to complete the acquisition, renovation, construction and installation of the Project on behalf of the Agency.

(c) After issuance of the initial Certificate of Occupancy and reaching the Project completion date designated in Section 5.4, no capital improvements shall be undertaken, and no additional equipment shall be added to Exhibit B; provided, however, that the Company shall be permitted to (i) make interior renovations and other capital improvements which will not result in an increase in the assessed value of the Project and (ii) acquire and install machinery, equipment and other property (not constituting fixtures) on its own behalf, and not as agent for the Agency, and retain title thereto and such machinery, equipment and other property shall not constitute part of the Project. Should the Agency, in its absolute discretion, agree to consent to any capital improvements or equipment additions not expressly permitted hereunder, such consent may be conditioned upon, among other things, payment to the Agency of an additional administrative fee and an increase in payments to be made under the PILOT in an amount equal to the Real Estate Taxes which would be payable by the Company on account of such capital improvements if the Agency did not have an interest in the Project.

(d) The Company affirms that it shall bear all of the costs and expenses in connection with the preparation of the instruments of conveyance, the delivery of any instruments and documents and their filing and recording, if required, and all taxes and charges payable in connection with the conveyance and transfer of the Project and all such costs, expenses, taxes and charges shall be costs to the Company. The Company further affirms that it shall pay all shipping and delivery charges and other expenses incurred in connection with the Project and pay all lawful claims, whether for labor, materials, supplies, rents or services, which might or could if unpaid become a lien or charge on the Project.

(e) The Company covenants that it will obtain or cause to be obtained all necessary approvals from any and all governmental agencies requisite to the acquisition, construction, renovation and installation of the Project, and the operation thereof, and the acquisition, construction, renovation and installation of the Project, and the operation thereof, will be done in material compliance with the federal, state and local laws, ordinances and regulations applicable thereto including, with respect to any machinery, equipment or other property of the Project, all manufacturers' instructions and warranty requirements, and in material compliance with the conditions and requirements of all policies of insurance with respect to the Project and this Agreement. Upon completion of the Project, the Company will promptly obtain or cause to be obtained all required occupancy permits, authorizations and licenses from appropriate authorities, if any be required, authorizing the occupancy and uses of the Project for the purposes contemplated by this Agreement and shall furnish copies of same to the Agency immediately upon receipt thereof.

(f) The Company will extend to the Agency all vendors' warranties received by the Company in connection with the acquisition, construction and installation of the Project, including any warranties given by contractors, manufacturers or service organizations who perform construction work on the leased premises. If requested, the Company shall execute and deliver appropriate instruments to the Agency to accomplish the foregoing.

(g) The Company shall, with the consent of the Agency, take such action and institute such proceedings as shall be necessary to cause and require all contractors and material suppliers to complete their contracts diligently in accordance with the terms of said contracts, including, without limitation, the correcting of any defective work, with all expenses incurred by the Company or the Agency in connection with the performance of their obligations under this section to be considered part of the cost of the Project, and the Agency agrees that the Company may, from time to time, in its own name, or in the name of the Agency with the consent of the Agency, take such action at the Company's sole expense, as may be necessary or advisable, as determined by the Company, to insure the acquisition, construction, renovation and installation of the Project in accordance with the terms of such applicable contracts, with all costs and expenses incurred by the Company in connection therewith to be considered as part of the cost of the Project.

(h) Reserved.

(i) The Company shall operate the Project in compliance with local zoning and planning regulations.

5.3 Responsibilities for Project Performance. The Agency appoints the Company its special agent to carry out the Project in the name of the Agency, and the Company shall serve in that capacity, and as such agent. The Company may make all arrangements to obtain or provide materials and equipment necessary for completion of the Project.

5.4 Completion by Company. The Company reasonably expects and agrees to proceed with diligence to complete, or cause to be completed, the acquisition, construction, renovation and installation of the Project by November 30, 2025.

5.5 Mechanic's Liens. The Agency shall not be liable for any labor or materials furnished or to be furnished by others to the Company, and no mechanic's, public improvement or other lien for any such labor or materials shall attach to or affect the interest of the Agency or the Project other than Permitted Exceptions. If any lien is filed by any Company contractor, subcontractor or materialman against the leasehold improvements constructed pursuant to Section 5.2 of this Agreement, the Company shall immediately take such action by bonding, deposit or payment as will remove the lien. If the Company has not commenced proceedings to remove the lien within thirty (30) days after notice to the Company or if the Company does not diligently pursue such proceedings, the Agency may pay the amount of the lien or discharge the same by bonding or deposit, and the amount so paid or deposited or the bond premiums, with interest thereon, shall be deemed Additional Rent under this Agreement. Such payment shall be without prejudice to the Company's rights to challenge the validity of the claim or lien.

5.6 Identification of Equipment. All Equipment is identified in Exhibit B attached hereto.

5.7 Sale or Disposition of Equipment. The Company shall not sell or dispose of any of the Equipment unless the Agency shall have consented thereto in writing, which consent shall not be unreasonably withheld; provided however that the Company shall be permitted to dispose of any Equipment which is damaged or has become obsolete or which has exceeded its useful life without the consent of the Agency.

5.8 Environmental Covenants. At all times while operating the Project, the Company agrees to comply with, and ensure compliance by its subtenants with, the provisions of the Environmental Compliance Agreement.

5.9 Compliance with Laws. The Company and any other subtenants will at all times be in compliance with all applicable federal, state and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality.

5.10 Waiver of Set-Off or Counterclaim. The obligation of the Company to make all payments provided for in this Agreement and to maintain the Project in accordance with this Agreement shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Agency, provided, however, that nothing contained herein shall be construed as a waiver of any right of the Company to commence a separate action as a result of any breach of this Agreement by the Agency.

5.11 Operation of Project. At all times it shall be an obligation of the Company to cause the Project to be occupied only by Eligible Sublessees or by the Company. The Company shall continuously operate the Project throughout the term of this Agreement for the purposes described herein and otherwise in accordance with the terms of this Agreement and the Act, except as appropriate and for such period as may be necessary in the case of an event described in Article XIV of this Agreement. In the event the Company, for any reason other than damage or destruction or a condemnation described in Article XIV of this Agreement, ceases to operate the Project as contemplated by this Agreement, the Company shall, commencing with the tax fiscal year next following such cessation of or change in operations, make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as Real Estate Taxes levied on the Project if the Agency did not have an interest in the Project. Such payments shall be in addition to any other rights or remedies of the Agency under this Agreement. For the purpose of this Agreement, the Company shall be deemed to have ceased to operate the Project as contemplated by this Agreement if the Company (a) materially alters the use of the Project, in the Agency's judgment, except as permitted hereunder, (b) closes the Project other than for routine maintenance, observance of national holidays or regularly scheduled seasonal closings, or (c) reduces its operations at the Project to such an extent that, in the Agency's judgment, the economic benefit to be derived from the Project has been substantially impaired. Any of the foregoing notwithstanding, the Company may use the Project for some purpose other than that described in this Agreement with the prior written consent of the Agency, which consent may be withheld in the Agency's absolute discretion, and provided further that such proposed use constitutes a qualified "project" in accordance with Agency policy and as defined under the Act.

5.12 Equal Employment Opportunities.

(a) The Company shall insure that all employees and applicants for employment with regard to the Project are afforded equal employment opportunities without discrimination.

(b) Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of the Project (whether by the Company or any other occupant of the Premises) shall be listed by the Company (or, if applicable, by such other occupant) with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) (or any successor legislation) in which the Project is located. Except as is otherwise provided by collective bargaining contracts or agreements, the Company agrees, and shall cause any other occupant of the Premises to agree, where practicable, to first consider persons eligible to participate in the Federal Job Training Partnership (P.L. No. 97-300) programs (or programs established under any successor legislation) who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the Community Services Division of the New York State Department of Labor for such new employment opportunities.

5.13 Compliance with Labor Law Section 224-a. Certain construction work done under contract in connection with financial assistance from the Agency may be subject to the requirements of Section 224-a of the Labor Law of the State, including without limitation the requirement that such construction be subject to the prevailing wage requirements of Section 220 and 220-b of the Labor Law. In addition, such construction work may be required by Section 224-a of the Labor Law to comply with the objectives and goals of minority and women-owned business enterprises pursuant to Article 15-A of the Executive Law and service-disabled veteran-owned business pursuant to Article 17-B of the Executive Law. The Company acknowledges receipt of notice pursuant to Section 224-a(8)(d) of the Labor Law that the sales and use tax exemption benefit amount referred to in Section 8.5(d) herein are “public funds” and not otherwise excluded under Section 224-a(3) of the New York Labor Law. The Company represents and warrants that it understands the requirements of Section 224-a of the Labor Law and the applicability of such requirements to the Project, and shall comply therewith.

ARTICLE VI

THE COMPANY’S OPTION

6.1 Purchase Option. Provided the Company is not in default of any of its obligations hereunder at the time of exercise, the Company shall at any time during the term hereof have the right to purchase the Project or portions thereof from the Agency for Ten and No/100 Dollars ($10.00). The Company shall exercise its right to purchase by written notice and closing shall take place sixty (60) days thereafter or on such other date as the parties may mutually agree upon. At closing, the Agency and the Company shall terminate the Company Lease and this Agreement with respect to such portion reconveyed and the Company shall have title to such portion of the Project subject to the Permitted Exceptions, and to any further liens or encumbrances caused or permitted by the Company. The Company shall pay the purchase price in cash and shall be responsible for all costs incurred in connection with such purchase, including, without limitation, recording fees, search and survey charges and the reasonable attorneys' fees of the Agency. Upon transfer in full of the Project (or the remaining portion of the Project), this Agreement between the Agency and the Company shall terminate except for those provisions that expressly survive termination and expiration.

ARTICLE VII

AGENCY ADMINISTRATIVE FEE

7.1 Payment of Administrative Fee. The Company shall pay the Agency, in installments as set forth herein, an administrative fee of Forty-Eight Thousand Eighty-Two and Sixty-Six/100 Dollars ($48,082.66). The Company and the Agency acknowledge that twenty percent (20%) of the total administrative fee in the amount of Nine Thousand Six Hundred Sixteen and Fifty-Three/100 Dollars ($9,616.53) has been remitted by the Company to the Agency. The remaining balance of the administrative fee in the amount of Thirty-Eighty Thousand Four Hundred Sixty-Six and Thirteen/100 Dollars ($38,466.13) is due and payable at closing. In the event that the balance of the administrative fee remains unpaid following the occurrence of the events described in the preceding sentence, interest on the unpaid amount shall accrue at nine percent (9%) per annum, and the Agency shall have the right to declare the Company in default under Section 16.1 of this Agreement and exercise such remedies as are available to the Agency under this Agreement or applicable law.

ARTICLE VIII

PILOT AND TAXES

8.1 Real Estate Taxes/Payments in Lieu of Taxes. Subject to the completion and filing of the Application for Tax Exemption by the Taxable Status Date and the approval of the Application for Tax Exemption by the Assessor, the Project shall be exempt from Real Estate Taxes commencing with the 2026-2027 tax fiscal year of the School District, and the 2027 tax fiscal year of the Town and County. The Company shall provide the Agency with all information required to complete the Application for Tax Exemption and shall provide such additional information and take such actions as are required by the Assessor in order to process and approve the Application for Tax Exemption. Upon the granting of the exemption, the Company shall make PILOT payments in accordance with the PILOT. The obligation of the Company to pay PILOT payments calculated to and including the date of termination of this Agreement, even though such PILOT payment may not yet be due by such date, shall survive the termination of this Agreement. In the event the Application for Tax Exemption is denied for any reason, the Company shall pay all Real Estate Taxes levied upon the Project as they become due. The obligation of the Company to pay such Real Estate Taxes calculated to and including the date of termination of this Agreement, even though such taxes may not yet be due and payable by such date, shall survive the termination of this Agreement.

It is understood and agreed that the real property tax exemption conferred upon the Project by virtue of the Agency's involvement applies only to the Project and does not apply to exempt the general levy real property taxes on the real property or the improvements that existed on the real property prior to the effective date of the PILOT and this Agreement (the "<u>Pre-Project Taxes</u>"), which Pre-Project Taxes shall continue to be paid by the Company and/or fee/title owner of the Premises or portion(s) thereof as and when due.

The Agency shall promptly forward to the Company in writing any notice, bill or other statement received by the Agency concerning any Real Estate Tax. The Company may, at its expense and in its own name, in good faith and with due diligence, contest (a) the denial of an exemption from Real Estate Taxes based upon the Application for Tax Exemption and (b) any Real Estate Taxes payable by reason of such denial, and shall give notice of such contest to the Agency. In the event of such contest, the Company may permit the Real Estate Taxes so contested to remain unpaid during the period of such contest unless (i) the failure to pay will subject the Project to loss, forfeiture or sale prior to completion of the contest, or (ii) the Agency would be in any danger of any civil or any criminal liability, other than normal accrual of interest, whereupon such Real Estate Taxes shall be paid forthwith by the Company without prejudice to its contest. The Company 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 Application for Tax Exemption with the Assessor by the Taxable Status Date.

8.2 <u>Impositions</u>. The Company shall pay all Impositions, foreseen and unforeseen, ordinary and extraordinary, under any present or future law whether billed in the name of the Company or in the name of the Agency. The Company shall be liable for Impositions, whether or not such Impositions encumber the Agency's title. The obligation of the Company to pay Impositions calculated to and including the date of termination of this Agreement even though such Impositions may not yet be due by such date, shall survive termination of this Agreement. The Company shall provide the Agency with proof of payment of Impositions within sixty (60) days after each payment.

In the event the Project is exempt from Impositions solely due to the Agency's interest in the Project, the Company shall pay all Impositions to the appropriate authorities equivalent to the Impositions which would have been imposed on the Project if the Agency did not have an interest in the Project.

The Agency shall promptly forward to the Company in writing any notice, bill or other statement received by the Agency concerning any Imposition. The Company may, at its expense and in its own name, in good faith and with due diligence, contest any Imposition and shall give notice of such contest to the Agency. In the event of such contest, the Company may permit the Imposition so contested to remain unpaid during the period of such contest unless (i) the failure to pay will subject the Project to loss, forfeiture or sale prior to completion of the contest, or (ii) the Agency would be in any danger of any civil or any criminal liability, other than normal accrual of interest, whereupon such Imposition shall be paid forthwith by the Company without prejudice to its contest.

8.3 Taxes, Assessments and Charges. The Company shall pay, as the same may become due, all taxes and governmental charges of any kind which may lawfully be assessed or levied against or with respect to the Project or the revenues therefrom.

8.4 Limitation on Sales Tax Exemption.

(a) Any exemption from Sales Taxes from or occasioned by Agency involvement with the Project shall be limited to purchases of Exempt Property by or for the Company as agent for the Agency which do not exceed the amounts authorized in the Resolution, it being the intent of the parties that no operating expenses of the Company and no purchases of equipment or other personal property (other than Exempt Property) shall be subject to an exemption from Sales Taxes because of Agency involvement with the Project. Nothing herein shall be construed as a representation by the Agency that any property included within the definition of Exempt Property is, in fact, exempt from Sales Taxes. The Company shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner"), the value of all Sales Tax exemptions claimed by the Company or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Agreement and the Resolution. A failure to report may result in the revocation of the designation of the Company as agent and repayment of any Sales Tax exemptions claimed.

(b) The Company shall annually file with the New York State Department of Taxation and Finance an "Annual Report of Sale and Use Tax Exemptions" (NYS Form ST-340) regarding the value of sales and use tax exemptions the Company, its agents, subagents, consultants or subcontractors have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with General Municipal Law Section 874(8). The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of same to the Agency; provided, however, that such copy shall be provided in no event later than February 15th of each year. The Company understands and agrees that the failure to file such annual statement will result in the removal of the Company's authority to act as agent for the Agency. The Company acknowledges and agrees that all purchases made in furtherance of the Project shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (NYS Form ST-123). The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. The purchase invoice should state "I, [insert name], a duly authorized representative of the Company, certify that it is a duly appointed agent of the Town of Amherst Industrial Development Agency and that it is purchasing the tangible personal property or services for use in the following Agency project and that such purchase qualifies as exempt from sales and use taxes under my agent agreement with the Town of Amherst Industrial Development Agency" or in the alternative clearly identify that this purchase is being made by the Company as agent for the Agency for the Project at 1667 Church Road, Bennington, New York. Copies of ST-123 forms issued by to any Project vendor shall be forwarded to the Agency within thirty (30) days following issuance. Until the Project is completed, the Company will forward to the Agency on a semi-annual basis, commencing six months following the adoption of the Resolution, a listing of all vendors, costs of purchases and estimated sales/use tax for each Project vendor. Within thirty (30) days following the completion of the Project, the Company will forward to the Agency a final list of all vendors, costs of purchases and estimated sales/use tax for each vendor for the Project.

(c) Should the Company fail to comply with any of the foregoing requirements, the Company shall immediately cease to be the agent for the Agency in connection with the Project (such agency relationship being deemed to be immediately revoked) and shall cease to be an operator of the Project without any further action of the parties, and the Agency shall be authorized to immediately reconvey the Project to the Company pursuant to Section 2.4 of this Agreement.

8.5 Recapture of Tax Benefits.

(a) In the event the Company closes the Project or relocates its operations to a location outside of Wyoming County within the time period during which the Company is receiving Financial Assistance from the Agency or in the event the Agency determines, in its judgment, that the Company knowingly and intentionally submitted false or misleading information in its application to the Agency or in any report or certification submitted to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a "Recapture Event"), the Agency may, in accordance with its policies and procedures then in effect, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, subcontractors or equipment lessors of the Company) as agents for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that the Company, commencing with the tax fiscal year next following such Recapture Event make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project or otherwise modify the amount or terms of any Financial Assistance being provided by the Agency in connection with the Project and/or (iii) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of (x) all sales tax exemptions claimed by the Company and any agents of the Company including, but not limited to, consultants, subcontractors or any equipment lessors of the Company under the authority granted under the Resolution, the Project Agreement and/or this Agreement, and (y) any exemption from real estate taxes received by reason of the Agency's leasehold interest in the Project. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all financial assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction.

(b) In addition, in the event, because of the involvement of the Agency, the Company claims an exemption from the New York State portion of any Sales Taxes in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder or under the Resolution or the Project Agreement, or which exemption is in excess of the amounts authorized hereunder or under the Resolution, or is otherwise not permitted under this Agreement or the Resolution or the Project Agreement, or if the Company shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company as agent for the Agency as set forth in this Agreement, the Resolution, the Project Agreement, the PILOT, or in any other document executed and delivered in connection therewith, then the Company shall be required to remit to the Agency an amount equal to the amount of New York State portion of any Sales Taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the Commissioner of the New York State portion of any Sales Taxes, together with any relevant penalties and interest.

(c) The maximum amount of Sales Tax exemption authorized is Sixty Thousand One Hundred Fifty-Seven and No/100 Dollars ($60,157.00). If the Company anticipates exceeding the maximum Sales Tax exemption provided for, the Company must contact the Agency to request that the amount of Sales Tax exemption authorized be increased. Within thirty (30) days following completion of the Project, the Company shall provide the Agency with a complete listing of all purchases made for which a Sales Tax exemption was provided with the amount of Sales Tax exemption received.

(d) If the Agency makes any determination under this Section 8.5 and requires a repayment of all or a portion of the Financial Assistance, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all financial assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt by the Agency of any repayment of exemptions granted, the Agency shall redistribute the amounts received to the appropriate affected tax jurisdictions unless otherwise agreed to by the tax jurisdiction.

(e) Any of the foregoing notwithstanding, the Agency reserves the right to terminate the provision of Financial Assistance for the Project in the event of any uncured breach or Event of Default under this Agreement. Any rights of the Agency under this Section 8.5 shall be in addition to any rights of the Agency pursuant to Section 16.2 upon the occurrence of an Event of Default.

(f) The right of the Agency to recapture any benefits pursuant to this Section 8.5 and the obligations of the Company hereunder shall survive any termination of this Agreement.

ARTICLE IX

INSURANCE

9.1 Liability Insurance.

(a) The Company shall maintain insurance, with insurance companies licensed to do business in the State of New York, against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the Company, including, without limitation:

(i) in the event of any construction, reconstruction, improvement or renovation of any part of the Project, Owners & Contractors Protective Liability Insurance for the benefit of the Company and the Agency in an aggregate amount that shall be the greater of (A) the amount the Company or its contractor customarily maintains or (B) $2,000,000.00 per occurrence and aggregate coverage, for personal injury and property damage during any period of such construction, reconstruction, improvement or renovation of any part of the Project;

(ii) commercial general liability insurance in accordance with customary insurance practices for similar operations with respect to the Project and the business thereby conducted in an aggregate amount that shall be the greater of (A) the amount the Company customarily maintains or (B) $2,000,000.00 per occurrence and aggregate coverage, which insurance will also provide coverage of the Company's obligations of indemnity under Article XVIII hereof, may be effected under overall blanket or excess coverage policies of the Company or any affiliate or subtenant thereof, and shall not contain any provision for deductible amount;

(iii) such additional coverage of the foregoing insurance and such other insurance in such amounts and against such insurable hazards as the Agency from time to time may reasonably require.

(b) All insurance required by subsection (a) of this section shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State.

(c) Each of the policies or binders evidencing the insurance required above to be obtained shall:

(i) designate the Agency as additional insured;

(ii) provide that there shall be no recourse against the Agency for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iii) provide that in respect of the respective interests of the Agency in such policies, the insurance shall not be invalidated by any action or inaction of the Company or any other person and shall insure the Agency regardless of, and any losses shall be payable notwithstanding,

(A) any act or negligence, including any breach of any condition, declaration or warranty contained in any such policy of insurance by the Agency (other than with respect to the Agency, losses arising from the gross negligence or willful misconduct of the Agency), the Company or any other person, or

(B) the occupation, operation or use of the Project for purposes more hazardous than permitted by the terms of the policy;

(iv) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Agency to the extent that such other insurance provides the Agency with contingent and/or excess liability insurance with respect to its respective interest as such in the Project, and shall expressly provide that all provisions thereof, except the limits of liability (which shall be applicable to all insureds as a group) and liability for premiums (which shall be solely a liability of the Company) shall operate in the same manner as if there were a separate policy covering each insured;

(v) provide that if the insurers cancel such insurance for any reason whatsoever, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency until at least thirty (30) days after receipt by the Agency of written notice by such insurers of such cancellation, lapse, expiration or change;

(vi) waive any right of subrogation of the insurers thereunder against any person insured under such policy, and waive any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any person insured under such policy; and

(vii) contain such other terms and provisions as any owner or operator of facilities similar to the Project would, in the prudent management of its properties, require to be contained in policies, binders or interim insurance contracts with respect to facilities similar to the Project owned or operated by it.

(d) The Company agrees that it will carry or cause to be carried in effect workers’ compensation insurance, disability benefits insurance and such other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of the employees of the Company and all contractors and subcontractors employed upon or with respect to the Project at the time of original construction or of any additions, remodeling, alterations, repair, restoration or reconstruction thereafter. The Company shall require that all said contractors and subcontractors shall maintain all forms or types of insurance with respect to their employees required by law.

(e) On or before the commencement of the term hereof, the Company shall deliver or cause to be delivered to the Agency duplicate copies of insurance policies and/or binders or certificates of insurance evidencing compliance with the insurance requirements of this

Section. At least thirty (30) business days prior to the expiration of any such policy, the Company shall furnish the Agency with evidence that such policy has been renewed or replaced or is no longer required by this Agreement.

(f) The Company shall, at its own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by the Agency to collect from insurers for any loss covered by any insurance required to be obtained.

(g) The Company shall not do any act, or suffer or permit any act to be done, whereby any insurance required by this Section would or might be suspended or impaired.

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

9.2 Reserved.

ARTICLE X

UTILITIES

10.1 Payment. The Company shall pay for its own account, and not as agent of the Agency, all utility charges, including, but not limited to, gas, electricity, telephone, water and sewer.

ARTICLE XI

MAINTENANCE AND REPAIRS

11.1 Project Maintenance. Upon signing of this Agreement, the Company shall accept the Project "as is" and the Company shall be responsible for all maintenance, repairs, remediation and replacements for the Project.

11.2 Site Improvements. The Company shall be responsible for all maintenance and repairs to roads, parking areas, exterior lighting, signs and site improvements to the Premises.

11.3 NO WARRANTY OF CONDITION OR SUITABILITY. THE AGENCY HAS NOT MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, ENVIRONMENTAL STATUS, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE PROJECT, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE PROJECT, OR THE SUITABILITY OF THE PROJECT FOR THE PURPOSES OR NEEDS OF THE COMPANY. THE COMPANY ACKNOWLEDGES THAT THE AGENCY IS NOT THE MANUFACTURER OF THE PROJECT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. THE COMPANY IS SATISFIED THAT THE PROJECT IS SUITABLE FOR ITS PURPOSES. THE

AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE COMPANY OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE (INCLUDING, WITHOUT LIMITATION, CONSEQUENTIAL OR INCIDENTAL DAMAGES) OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OR THE PROJECT OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE, OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

ARTICLE XII

REPRESENTATIONS AND WARRANTIES BY THE COMPANY

The Company makes the following representations and warranties:

12.1 The Company's Authority. The Company is duly organized and validly existing under the laws of the State of New York, has the power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Agreement.

12.2 Conflicts. The execution, delivery and performance of this Agreement and the consummation of the transaction herein contemplated have been duly authorized by all requisite limited liability company action and will not violate any material provision of law, any order of any court or agency of government or the organizational documents of the Company, or any indenture, agreement or other instrument to which the Company is a party or by which it or any of its property is bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a material default under any such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever except as provided in this Agreement.

12.3 Inducement. The acquisition of a leasehold interest in the Project by the Agency and the leasing thereof to the Company has induced the Company to locate the Project in the County.

12.4 Operations. The Company shall operate the Project in accordance with this Agreement and as a qualified "project" in accordance with and as defined under the Act.

12.5 Enforceability. This Agreement constitutes the legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except to the extent that the enforceability of this Agreement may be limited by bankruptcy, moratorium or insolvency or other laws affecting creditors' rights generally.

12.6 Unlawful Use. The Company shall not use or allow the Project or any part thereof to be used or occupied for an unlawful purpose or in violation of any certificate of occupancy affecting the Project or in any manner which may constitute a nuisance, public or private, or make void or voidable any insurance then in force with respect to the Project or which would violate or be inconsistent with the Act. The Company represents and agrees that the Agency shall have such rights to enter upon the Project, as shall be reasonably necessary to enable the Agency to exercise its powers, rights, duties and obligations as set forth in this Agreement.

12.7 Lawful Design of Project. To the best of Company's knowledge after diligent inquiry, the Project is designed, and the Project will be operated in the future, in compliance with all applicable federal, state and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality.

12.8 Compliance with Laws. The Company certifies, under penalty of perjury, that the Company and any other occupant or operator of the Project receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

ARTICLE XIII

ADVANCES BY THE AGENCY

13.1 Advances by the Agency. In the event the Company fails to take out or maintain the full insurance coverage required by this Agreement, fails to pay the PILOT payments or Impositions at or prior to the time they are required to be paid or to make necessary renewals and replacements to the Project or keep it in good order and repair and in as reasonably safe condition as its operations permit or to perform or observe any of its other obligations under this Agreement, the Agency, after first notifying the Company of any such failure on its part, may (but shall not be obligated to), and without waiver of any of the rights of the Agency under this Agreement, take out the required policies of insurance and pay the premiums on the same, pay such PILOT payments, Impositions and other charges or make such repairs, renewals and replacements as may be necessary to complete and maintain the Project in good order and repair and in as reasonably safe condition as the Company's operations permit or otherwise cure any failure by the Company to perform and observe its other obligations contained in this Agreement. All amounts so advanced therefor by the Agency shall become Additional Rent and an obligation of the Company to the Agency, which amounts, together with interest thereon at the rate of sixteen percent (16%) per annum, from the date advanced, the Company will pay upon demand therefor by the Agency. Any remedy available to the Agency for the default by the Company under this Agreement shall also be available to the Agency for the collection of all such amounts so advanced.

ARTICLE XIV

DAMAGE, DESTRUCTION AND CONDEMNATION

14.1 Damage or Destruction. If the Project shall be damaged or either partially or totally destroyed at any time during the term of this Agreement, the Agency shall have no obligation to replace, repair, rebuild or restore the Project and there shall be no abatement or reduction in the rent or other amounts payable by the Company under this Agreement. In such case, the Company will promptly give written notice thereof to the Agency, generally describing the nature and extent of such damage or destruction.

14.2 The Company's Option to Rebuild. Unless the Company shall, as soon as practical and not later than thirty (30) days after such damage or destruction, notify the Agency of its intent to do so and shall thereafter, at its own cost and expense, repair, restore or reconstruct the damaged or destroyed portion of the Project to substantially its condition immediately prior to such damage or destruction or to a condition of at least equivalent value and function within a reasonable time after such damage or destruction, this Agreement shall terminate and the Company shall accept the conveyance of the Project by the Agency as provided in Section 2.4 hereof. The Company shall not be entitled to any reimbursement from the Agency for any cost or expenses of repair, restoration or reconstruction nor shall the rent or other payments due from the Company be abated or diminished. Any repair, restoration or reconstruction by the Company shall automatically be a part of the Project. Such repair, restoration or reconstruction of the Project shall be in accordance with plans and specifications approved by the Agency, which approval shall not be unreasonably withheld.

14.3 Condemnation. If the whole or any part of the Project shall be taken or condemned by a competent authority for any public use or purpose, or if the temporary use of the Project shall be so taken by condemnation or agreement, the Agency shall be under no obligation to replace, restore or rebuild the Project, and there shall be on account of such taking or condemnation no abatement or reduction in the rent or other amounts payable by the Company under this Agreement. In such case, the Company will promptly give written notice thereof to the Agency, generally describing the nature and extent of such taking or condemnation. Any condemnation award or damages received by the Agency, less any sums owing to the Agency under this Agreement or with respect to the PILOT or Impositions to the date of taking, shall be paid by the Agency to the Company. If such taking or condemnation shall involve the taking or condemnation of all or substantially all of the Project or renders the Project unsuitable for use by the Company as contemplated hereby, the term of this Agreement shall thereupon terminate as if such date were the date of expiration as provided in Section 2.3 hereof.

14.4 Taking of the Company's Equipment. The Company shall be entitled to the proceeds of any taking or condemnation relating to the Company's machinery, equipment or other property to which it has retained title in accordance with the provisions of this Agreement.

ARTICLE XV

ASSIGNMENT AND SUBLETTING

15.1 Approvals Required. The Company shall not assign, sublet, mortgage or encumber this Agreement or permit the Project to be used by others, except with the prior written consent of the Agency, which consents may be withheld by the Agency in its absolute discretion. Any such consent by the Agency may be conditioned upon, among other things, the payment of a fee in accordance with the then existing Agency procedures and policies. Any assignee or subtenant consented to by the Agency must utilize the Premises in compliance with Agency policy and the Act.

Any mortgage of the Project shall exclude from its mortgage the Agency's Reserved Rights.

15.2 Continuing Obligations. The consent by the Agency to an assignment or sublease shall not relieve the Company from any of its obligations under this Agreement and no such assignment, subletting or occupancy shall be deemed a waiver of this Article, or the acceptance of the assignee, subtenant or occupant as tenant, or a release of the Company.

15.3 Reserved.

15.4 Non-Disturbance. The Agency shall not disturb the occupancy of any subtenant or assignee permitted by Section 15.1 hereof, provided such subtenant or assignee shall attorn to the Agency under this Agreement and is not in default under the terms of its sublease or assignment.

15.5 Maintain Existence. During the term of this Agreement, the Company shall maintain its existence, shall not dissolve or otherwise dispose of all or substantially all of its assets, and shall not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it. The Company shall not permit any transfers of ownership interests in the Company without providing the Agency with prior written notice of such transfers.

ARTICLE XVI

EVENTS OF DEFAULT; REMEDIES

16.1 Event of Default. Any one or more of the following events shall constitute an "Event of Default":

(a) Failure by the Company to keep continuously in effect the insurance required by Article IX hereof.

(b) Failure of the Company to comply with its obligations under Section 5.11 of this Agreement.

(c) Failure by the Company (i) to pay any rent or Additional Rent (other than payments required under the PILOT) or other sum that has become due and payable by the terms of this Agreement and the continuation of such default for fifteen (15) days after written notice from the Agency or (ii) to pay any amounts due under the PILOT when due.

(d) Failure by the Company to observe and perform any other covenant, condition or agreement under this Agreement, the Environmental Compliance Agreement or under any other agreement between the Company and the Agency on its part to be performed (except the obligation to pay any amounts due under the PILOT or any rent, or other Additional Rent or other sums and to provide insurance) and continuance of such failure for a period of thirty (30) days after receipt by the Company of written notice specifying the nature of such default.

(e) Assignment of the rights of the Company under this Agreement to any entity whether such assignment occurs voluntarily, involuntarily or by operation of law.

(f) If the Company shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under such Bankruptcy Code, or (vii) take any action for the purpose of effecting any of the foregoing.

(g) If a proceeding or case shall be commenced, without the application or consent of the Company, in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of the Company, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Company or of all or any substantial part of its assets, or (iii) similar relief with regard to the Company under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continued unstayed and in effect, for a period of sixty (60) days; or any order for relief against the Company shall be entered in an involuntary case under such Bankruptcy Code.

(h) Any representation or warranty made by the Company herein or in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing shall prove to be false, misleading or incorrect in any material respect as of the date made.

(i) If any judgment or judgments with respect to the Project for payment of money in an aggregate amount in excess of $50,000 shall be rendered against the Company and shall remain unpaid, undischarged, unstayed on appeal, unbonded or undismissed for a period of sixty (60) days.

(j) Any event of default with respect to any indebtedness of the Company which is secured by a lien on the Project or any part thereof.

16.2 Remedies on Default. Whenever any Event of Default shall have occurred, the Agency may take one or more of the following remedial steps:

(a) Cause all monies payable hereunder which have not been previously paid to become immediately due and payable.

(b) Terminate this Agreement and the Company Lease and convey the Project to the Company as provided in Section 2.4 hereof or otherwise terminate the provision of Financial Assistance for the Project.

(c) Exercise its remedies under the Environmental Compliance

Agreement or the PILOT.

(d) Take whatever action at law or in equity as may appear necessary or desirable to collect any sums due under this Agreement when due and thereafter to become due, or to enforce performance or observance of any obligations, agreements or covenants of the Company under this Agreement.

16.3 Compensation and Expenses of Agency. The Company shall pay the reasonable fees and expenses of the Agency (including attorneys' fees) incurred by the Agency by reason of the Agency's involvement with the Project including, but not limited to, those incurred in connection with any actions taken by the Agency to cure any failure by the Company to perform any obligations under this Agreement or to enforce any remedies of the Agency hereunder.

16.4 Remedies Cumulative. The rights and remedies of the Agency under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Agency allowed by law with respect to any default under this Agreement. Failure by the Agency to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights and remedies upon default by the Company hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and enforce through specific performance or other appropriate legal remedy a strict compliance by the Company with all of the covenants and conditions of this Agreement, or of the rights to exercise any such rights or remedies, if such default by the Company be continued or repeated, or of the right to recover possession of the Project.

16.5 No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by either party and thereafter 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. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Agency and the Company or any delay or omission on the part of the Agency in exercising any rights shall operate as a waiver.

16.6 Further Assurances. The Company will cooperate with the Agency for the purpose of protecting the Agency's interest in the Project, this Agreement and the sums due under this Agreement and shall execute and deliver to the Agency upon written request such other instruments and assurances as the Agency deems necessary or advisable for the implementation, effectuation, confirmation or perfection this Agreement and any rights of the Agency hereunder.

ARTICLE XVII

FURTHER REQUIREMENTS

17.1 Opinions. The Company shall deliver promptly to the Agency, such opinions of counsel as may be reasonably requested by the Agency as to any matters provided for in this Agreement.

17.2 Notices. The Company shall give written notice to the Agency promptly upon the Company's discovery of any Event of Default under this Agreement.

17.3 Other Acts. At the Agency's request, the Company shall execute and deliver to the Agency all further documents and perform all other acts which the Agency reasonably deems necessary or appropriate to perfect or protect the Agency's rights and to carry out the purposes and terms of this Agreement.

ARTICLE XVIII

INDEMNITY

18.1 Indemnity. To the fullest extent permitted by law, the Company shall at all times protect, defend, indemnify and hold the Agency harmless against all claims (whether under any statute or at common law) for losses, damage, injury, including death, property damage and liability however caused, (other than losses arising from the gross negligence or willful misconduct of the Agency or its employees, agents (other than the Company) or invitees), arising during the term of this Agreement upon or about the Project or resulting from, arising out of, or in any way connected with the Agency's participation in the Project or any challenges thereto, the acquisition, construction, renovation, installation, equipping or operation of the Project, the preparation of the site thereof, the condition of or defects in the Project (including any defects in the Agency's leasehold interest therein), the maintenance, repair, replacement, restoration, rebuilding, remediation, upkeep, use, occupancy, ownership, leasing or subletting of the Project or any portion thereof, or the failure by the Company to comply with any of the provisions of this Agreement or to the perform any of the Company's obligations hereunder. The Agency shall not be liable for any damage or injury, including death, to the person or property of the Company or its partners, employees, agents or servants or persons under the Company's control or supervision, or any other person who may be about the Project, due to any act or negligence of any person other than the gross negligence or willful misconduct of the Agency, or its employees, agents (other than the Company) or invitees.

18.2 Release. The Company releases the Agency from, and agrees that the Agency shall not be liable for and the Company agrees to defend, indemnify, to the fullest extent permitted by law, and hold the Agency harmless against any expense, including without limitation attorneys' fees, penalties, fines, losses, damages, injuries or liabilities incurred because of any lawsuit commenced with respect to any of the matters set forth in Section 18.1 hereof or any judgment rendered thereunder. The Agency shall promptly notify the Company in writing of any claim or action brought against the Agency, in which defense and indemnity may be sought against the Company pursuant to Section 18.1; such notice shall be given in sufficient time to allow the Company to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Company under Sections 18.1 and 18.2 hereof.

18.3 Persons Protected. The indemnifications and protections set forth above in this Article XVIII shall be extended, with respect to the Agency, to its members, directors, officers, employees, agents and servants and persons under the control or supervision of the Agency.

18.4 Survival of Obligations. Anything to the contrary in this Agreement notwithstanding, the covenants of the Company contained in this Article XVIII and in the

Environmental Compliance Agreement shall remain in full force and effect after and survive the expiration or termination of this Agreement.

18.5 Relationship of Company to Agency. For the purposes of this Article XVIII, the Company shall not be deemed to be an employee, agent or servant of the Agency or a person under the control or supervision of the Agency.

18.6 Insuring of Obligations. To effectuate the purposes of this Article XVIII, the Company will provide for and insure, in the liability policies required in Section 9.1 hereof, not only its own liability in respect of the matters therein mentioned but also the liability pursuant to this Article. Should an insurance carrier provide for the defense of the Agency in connection with any claim subject to indemnity under Sections 18.1 or 18.2 hereof, the Company shall cause such insurance carrier (and the attorneys retained by such insurance carrier) to promptly provide the Agency with such information regarding the status of such claims as the Agency may from time to time request. Should the Company provide the defense of any such claim directly, the Company shall request the attorneys providing the defense to promptly provide the Agency with such information regarding the status of such claims as the Agency may from time to time request.

ARTICLE XIX

DISPUTE RESOLUTION

19.1 Governing Law. This Agreement shall be governed in all respects by the laws of the State of New York and the parties agree to submit to the jurisdiction of the federal or state courts located in Wyoming County, New York.

19.2 **WAIVER OF TRIAL BY JURY. THE COMPANY AND THE AGENCY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY DISPUTE ARISING UNDER THIS AGREEMENT, AND THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT**.

ARTICLE XX

MISCELLANEOUS CLAUSES

20.1 Notices. All notices, demands or communications given under this Agreement shall be sent to the parties at the addresses set forth below or at such other addresses as the parties may designate by written notice and shall be by prepaid registered or certified mail, return receipt requested, and shall be deemed given on the date two (2) days after the date mailed:

(a) To the Agency:

Wyoming County Industrial Development Agency
36 Center Street, Suite D
Warsaw, New York 14569

Attn: Chairman

With a copy to:

Hurwitz Fine P.C.
The Liberty Building
424 Main Street, Suite 1300
Buffalo, New York 14202
Attn: Kevin J. Zanner, Esq.

(b) To the Company:

NY Bennington I, LLC
228 Aviation Avenue, Suite 200
South Burlington, VT 05403
Attn: Sasha Conroy, General Counsel and Partner

With a copy to:

Hodgson Russ LLP
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202
Attn: Daniel Spitzer, Esq.

20.2 No Recourse Under This Agreement.

(a) No provision, covenant or agreement contained herein, in any other agreement entered into in connection herewith, or any obligations herein imposed, upon the Agency, or any breach thereof, shall constitute or give rise to or impose upon the Agency, a debt or other pecuniary liability or a charge upon its general credit, and all covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement, the Company Lease and/or in any other document or agreement entered into in connection therewith, shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent (other than the Company) of the Agency in his or her individual capacity, and the members, officers, agents (other than the Company) and employees of the Agency shall not be personally liable 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, in the Company Lease, and/or in any other document or agreement entered into in connection therewith shall not constitute or give rise to an obligation of the State of New York or the County of Wyoming and neither the State of New York nor the County of Wyoming 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.

(c) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder, under the Company Lease or under any other document or agreement entered into in connection therewith shall be sought or enforced against the Agency unless (i) the party seeking such order or decree shall have first requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) 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 thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (ii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses, and (iii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company) or employees shall be subject to potential liability, the party seeking such order or decree shall (x) agree to indemnify 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 (y) 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.

20.3 Entire Agreement. This Agreement contains the entire agreement between the parties and all prior negotiations and agreements are merged in this Agreement. This Agreement may not be changed, modified or discharged, in whole or in part, except by a written instrument executed by the party against whom enforcement of the change, modification or discharge is sought.

20.4 Agency Representations. The Company expressly acknowledges that neither the Agency nor the Agency's agents has made or is making, and the Company, in executing and delivering this Agreement, is not relying upon warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Agreement, and no rights, easements or licenses are or shall be acquired by the Company by implication or otherwise unless expressly set forth in this Agreement.

20.5 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

20.6 Paragraph Headings. Paragraph headings are for convenience only and shall not affect the construction or interpretation of this Agreement.

20.7 Reserved.

20.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. In the event that any signature is delivered by facsimile transmission or by e-mail delivery in PDF format, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or PDF signature page were an original thereof. Said counterparts shall constitute but one and the same instrument and shall be binding upon each of the undersigned as fully and completely as if all had signed the same instrument.

[remainder of page intentionally left blank. signature pages to follow]

IN WITNESS WHEREOF, the Agency and the Company have duly executed this Agency Lease Agreement, as of the day and year first above written.

WYOMING COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: James Pierce
Name: James Pierce
Title: Executive Director

NY BENNINGTON I, LLC

By: BXW II, LLC
Its sole member

By:____________________________
Name: Gregg H. Beldock
Title: Co-Manager

STATE OF NEW YORK)
) SS.:
COUNTY OF WYOMING)

On the 28th day of August, in the year 2025, before me, personally appeared James Pierce, 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 this instrument.

Robin L. Marschilok
Notary Public
Robin L. Marschilok
Notary Public, State of New York
Steuben County, #01MA6230381
Commission Expires 11-01-26

STATE OF NEW YORK)
) SS.:
COUNTY OF __________)

On the ____ day of _____________, in the year 2025, before me, personally appeared Gregg H. Beldock 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 this instrument.

____
Notary Public

IN WITNESS WHEREOF, the Agency and the Company have duly executed this Agency Lease Agreement, as of the day and year first above written.

WYOMING COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By:____________________________________
Name: James Pierce
Title: Executive Director

NY BENNINGTON I, LLC

By: BXW II, LLC
Its sole member

By:____________________________________
Name: Gregg H. Beldock
Title: Co-Manager

STATE OF NEW YORK)
) SS.:
COUNTY OF WYOMING)

On the ____ day of ________________, in the year 2025, before me, personally appeared James Pierce, 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 this instrument.

____
Notary Public

STATE OF ~~NEW YORK~~ Vermont)
) SS.:
COUNTY OF Chittenden)

On the 27th day of June, in the year 2025, before me, personally appeared Gregg H. Beldock 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 this instrument.

____
Notary Public

Sasha Conroy
Notary Public, State of Vermont
Commission Number: 0009172
Commission Expires 1/31/2027

EXHIBIT A

DESCRIPTION OF PREMISES

ALL THAT CERTAIN TRACT OR PIECE OF LAND SITUATE IN THE TOWN OF BENNINGTON, COUNTY OF WYOMING, STATE OF NEW YORK INTENDED TO DESCRIBE A LEASE AREA OVER THE LANDS OF EDWARD HOBART HALSTED & TERRY ANN HALSTED (TAX# 4.00-1-3.1) BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE NORTHERLY LINE OF CHURCH ROAD (49.5 FEET WIDE), SAID POINT BEING DISTANT 283.79 FEET WESTERLY FROM THE EASTERLY LINE OF LOT NO. 4, AS MEASURED ALONG THE SAID NORTHERLY LINE OF CHURCH ROAD, SAID POINT HAVING THE COORDINATES OF N 1041446.708, E 1204758.091 (NY STATE PLANE COORDINATE ZONE 3103 NY W, NAD_83 (2011));

THENCE S 89°53'23" W ALONG THE SAID NORTHERLY LINE OF CHURCH ROAD, A DISTANCE OF 113.60 FEET;

THENCE THROUGH THE SAID LANDS OF EDWARD HOBART HALSTED & TERRY ANN HALSTED THE FOLLOWING SEVEN (7) COURSES AND DISTANCES:

1. N 01°22'07" W A DISTANCE OF 891.59 FEET;
2. N 46°07'49" W A DISTANCE OF 28.16 FEET;
3. S 89°18'48" W A DISTANCE OF 58.40 FEET;
4. N 00°41'12" W A DISTANCE OF 40.00 FEET;
5. N 89°18'48" E A DISTANCE OF 58.40 FEET;
6. N 43°44'20" E A DISTANCE OF 27.32 FEET;
7. N 01°22'07" W A DISTANCE OF 7.16 FEET; TO THE POINT OF BEGINNING, SAID POINT HAVING THE COORDINATES OF N 1042424.230, E 1204621.130 (NY STATE PLANE COORDINATE ZONE 3103 NY W, NAD_83 (2011));

THENCE CONTINUING THROUGH THE SAID LANDS OF EDWARD HOBART HALSTED & TERRY ANN HALSTED THE FOLLOWING ELEVEN (11) COURSES AND DISTANCES:

1. S 90°00'00" W A DISTANCE OF 779.08 FEET
2. N 00°00'00" W A DISTANCE OF 459.23 FEET;
3. N 90°00'00" E A DISTANCE OF 160.49 FEET;

4. N 00°00'00" W A DISTANCE OF 202.08 FEET;

5. S 90°00'00" E A DISTANCE OF 742.86 FEET;

6. S 00°00'00" E A DISTANCE OF 133.33 FEET;

7. N 81°14'48" E A DISTANCE OF 80.90 FEET;

8. S 08°45'12" W A DISTANCE OF 130.00 FEET;

9. S 81°14'48" W A DISTANCE OF 17.15 FEET;

10. S 00°00'00" E A DISTANCE OF 409.20 FEET;

11. S 90°00'00" W A DISTANCE OF 206.84 FEET; TO THE POINT OF BEGINNING. CONTAINING 14.01 ACRES OF LAND, MORE OR LESS.

TOGETHER WITH THE FOLLOWING ACCESS & UTILITY EASEMENT:

ALL THAT CERTAIN TRACT OR PIECE OF LAND SITUATE IN THE TOWN OF BENNINGTON, COUNTY OF WYOMING, STATE OF NEW YORK INTENDED TO DESCRIBE AN ACCESS & UTILITY EASEMENT OVER THE LANDS OF EDWARD HOBART HALSTED & TERRY AN HALSTED (TAX# 4.00-1-3.1) BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF CHURCH ROAD (49.5 FEET WIDE), SAID POINT BEING DISTANT 283.79 FEET WESTERLY FROM THE EASTERLY LINE OF LOT NO. 4, AS MEASURED ALONG THE SAID NORTHERLY LINE OF CHURCH ROAD, SAID POINT HAVING THE COORDINATES OF N 1041446.708, E 1204758.091 (NY STATE PLANE COORDINATE ZONE 3103 NY W, NAD_83(2011));

THENCE S 89°53'23" W ALONG THE SAID NORTHERLY LINE OF CHURCH ROAD, A DISTANCE OF 113.60 FEET;

THENCE, THROUGH THE SAID LANDS OF EDWARD HOBART & TERRY ANN HALSTED THE FOLLOWING TEN (10) COURSES AND DISTANCES:

1. N 01°22'07" W A DISTANCE OF 891.59 FEET;

2. N 46°07'49" W A DISTANCE OF 28.16 FEET;

3. S 89°18'48" W A DISTANCE OF 58.40 FEET;

4. N 00°41'12" W A DISTANCE OF 40.00 FEET;

5. N 89°18'48" E A DISTANCE OF 58.40 FEET;

6. N 43°44'20" E A DISTANCE OF 27.32 FEET;

7. N 01°22'07" W A DISTANCE OF 7.16 FEET;

8. N 89°43'58" E A DISTANCE OF 48.45 FEET;

9. S 01°17'20" E A DISTANCE OF 885.35 FEET;

10. S 36°36'22" E A DISTANCE OF 115.20 FEET TO THE POINT OF BEGINNING. CONTAINING 1.22 ACRES OF LAND, MORE OR LESS.

EXHIBIT B

DESCRIPTION OF EQUIPMENT

All machinery, apparatus, appliances, equipment, fittings, fixtures and furnishings and other property of every kind and nature whatsoever hereafter affixed to, located upon, appurtenant thereto or usable in connection with the future operation and occupancy of the Project together with any replacements therefor to the extent acquitted in the name of the Agency by the Company pursuant to the Agency appointment described in Section 5.3 of the Agency Lease Agreement.

EXHIBIT C

LEASE AGREEMENT

NY Bennington I, LLC (the "Company") leases the Premises from Edward H. Halsted and Terry A. Halsted ("Lessor") pursuant to that certain Assignment of Lease Agreement by and among Delaware River Solar, LLC ("DRS") and the Company, dated as of July 27, 2023, which assigned that certain Lease Agreement by and between Lessor and DRS, dated as of October 21, 2021, as amended by that certain First Amendment to Lease Agreement by and between Lessor and DRS, dated as of July 26, 2023, and as further amended by that certain Second Amendment to Lease Agreement by and between Lessor and the Company, dated as of February 11, 2025.

<u>EXHIBIT D</u>

PERMITTED EXCEPTIONS

Permitted Exceptions are set forth in the attached Title Commitment of Fidelity National Title Insurance Company (Title No. WTA-24-012873) dated February 14, 2025

FIDELITY NATIONAL TITLE INSURANCE COMPANY

Title No: WTA-24-012873 **NY Title Ins. Lic. No.: TLA-1353623**

Commitment for Title Insurance

Issued By

755 Jefferson Road – Suite 300
Rochester, NY 14623
Phone: (888) 250-9056 / (585) 454-4770
Fax: (888) 250-9057 / (585) 454-4943

www.webtitle.us

By: ______________________

Christine B. Liberi
Senior Title Officer

THIS REPORT IS NOT A TITLE INSURANCE POLICY!

PLEASE READ IT CAREFULLY. THE REPORT MAY SET FORTH EXCLUSIONS UNDER THE TITLE INSURANCE POLICY AND MAY NOT LIST ALL LIENS, DEFECTS, AND ENCUMBRANCES AFFECTING TITLE TO THE PROPERTY.

YOU SHOULD CONSIDER THIS INFORMATION CAREFULLY.

Title No: WTA-24-012873 (AMENDED 4)

AGREEMENT TO ISSUE POLICY

WebTitle Agency ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the Land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate 180 days after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

This Commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory.

Special Note: Please be advised that WebTitle Agency, as authorized issuing agent, utilizes title insurance rate calculators available to the general public on the internet free of charge. Please feel free to contact WebTitle Agency for a list of these website addresses.

Title No: WTA-24-012873 (AMENDED 4)

CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.

2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions.

3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.

4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.

5. The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is $2,000,000.00 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.

   You may review a copy of the arbitration rules at: http://www.alta.org/.

Title No: WTA-24-012873 (AMENDED 4)

COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

1. Commitment Effective Date: **November 8, 2024**

2. Date of issuance: **February 14, 2025**

3. Policy (or Policies) to be issued and Proposed Insured:

☒ 1st Loan Policy ALTA LOAN 2021:

Proposed Insured:	**M1 Bank, a Missouri chartered bank; Its Successors and/or Assigns, as Their Interest May Appear**
Policy Amount:	**$6,204,387.25**
Borrower(s):	**NY Bennington I, LLC**

☒ 2nd Loan Policy ALTA LOAN 2021:

Proposed Insured:	**M1 Bank, a Missouri chartered bank; Its Successors and/or Assigns, as Their Interest May Appear**
Policy Amount:	**$1,193,366.75**
Borrower(s):	**NY Bennington I, LLC**

THIS COMMITMENT IS FURNISHED BY WEBTITLE AGENCY AS AUTHORIZED ISSUING AGENT SOLELY FOR THE ISSUANCE OF A POLICY OR POLICIES OF TITLE INSURANCE. THIS COMMITMENT IS NOT AN ABSTRACT OR AN OPINION OF TITLE. LIABILITY UNDER THIS COMMITMENT IS DEFINED BY AND LIMITED TO THE TERMS AND CONDITIONS OF THIS COMMITMENT AND THE TITLE INSURANCE POLICY TO BE ISSUED. PERSONS AND ENTITIES NOT LISTED ABOVE AS PROPOSED INSUREDS ARE NOT ENTITLED TO RELY UPON THIS COMMITMENT FOR ANY PURPOSE.

4. The estate or interest in the land described or referred to in this Commitment is Leasehold and Easement.

5. THIS COMPANY CERTIFIES that a good and marketable title to the premises described in Schedule A, subject to the liens, encumbrances and other matters, if any, set forth in this certificate may be conveyed and/or mortgaged by:

FEE OWNER: **Edward Hobart Halsted and Terry Ann Halsted, as husband and wife**

Source of Title:	Quitclaim Deed dated October 5, 2021, by and between Edward Hobart Halsted, Grantor, and Edward Hobart Halsted and Terry Ann Halsted, as husband and wife, Grantee, and recorded on October 15, 2021 in Liber 806 at page 774.

LEASEHOLD OWNER: **NY BENNINGTON I, LLC**

Source of Title:	Memorandum of Lease recorded June 22, 2023 in Liber 817 at page 575. Memorializes Lease dated October 21, 2021, between Edward H. Halsted and Terry A. Halsted, as husband and wife, Lessor, and Delaware River Solar, LLC, Lessee.

-continued-

Title No: WTA-24-012873 (AMENDED 4)

COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

5. Continued

Source of Title Cont.:	First Amendment to Lease Agreement dated July 26, 2023, between Edward H. Halsted and Terry A. Halsted, as husband and wife, Lessor, and Delaware River Solar, LLC, Lessee.
	Memorandum of Assignment of Lease recorded August 21, 2023 in Liber 818 at page 555. Memorializes Assignment of Lease Agreement dated July 27, 2023 between Delaware River Solar, LLC and NY Bennington I LLC, Lessee.

6. The land referred to in this Commitment is described as follows:

SEE SCHEDULE "A" CONTINUED ATTACHED HERETO AND MADE A PART HEREOF

7. The land referred to in this Commitment is situated in the State of New York and is identified as follows:

Property Address:	Church Road, Bennington, NY 14040 (Town of Bennington)
County:	Wyoming
SWIS Code:	562201
Tax ID No.	4.-1-3.1
Property Type:	VACANT FARMLAND

Title No: WTA-24-012873 (AMENDED 4)

COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

ALL THAT CERTAIN TRACT OR PIECE OF LAND SITUATE IN THE TOWN OF BENNINGTON, COUNTY OF WYOMING, STATE OF NEW YORK INTENDED TO DESCRIBE A LEASE AREA OVER THE LANDS OF EDWARD HOBART HALSTED & TERRY ANN HALSTED (TAX# 4.00-1-3.1) BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE NORTHERLY LINE OF CHURCH ROAD (49.5 FEET WIDE), SAID POINT BEING DISTANT 283.79 FEET WESTERLY FROM THE EASTERLY LINE OF LOT NO. 4, AS MEASURED ALONG THE SAID NORTHERLY LINE OF CHURCH ROAD, SAID POINT HAVING THE COORDINATES OF N 1041446.708, E 1204758.091 (NY STATE PLANE COORDINATE ZONE 3103 NY W, NAD_83 (2011));

THENCE S 89°53'23" W ALONG THE SAID NORTHERLY LINE OF CHURCH ROAD, A DISTANCE OF 113.60 FEET;

THENCE THROUGH THE SAID LANDS OF EDWARD HOBART HALSTED & TERRY ANN HALSTED THE FOLLOWING SEVEN (7) COURSES AND DISTANCES:

1. N 01°22'07" W A DISTANCE OF 891.59 FEET;

2. N 46°07'49" W A DISTANCE OF 28.16 FEET;

3. S 89°18'48" W A DISTANCE OF 58.40 FEET;

4. N 00°41'12" W A DISTANCE OF 40.00 FEET;

5. N 89°18'48" E A DISTANCE OF 58.40 FEET;

6. N 43°44'20" E A DISTANCE OF 27.32 FEET;

7. N 01°22'07" W A DISTANCE OF 7.16 FEET; TO THE POINT OF BEGINNING, SAID POINT HAVING THE COORDINATES OF N 1042424.230, E 1204621.130 (NY STATE PLANE COORDINATE ZONE 3103 NY W, NAD_83 (2011));

THENCE CONTINUING THROUGH THE SAID LANDS OF EDWARD HOBART HALSTED & TERRY ANN HALSTED THE FOLLOWING ELEVEN (11) COURSES AND DISTANCES:

1. S 90°00'00" W A DISTANCE OF 779.08 FEET

2. N 00°00'00" W A DISTANCE OF 459.23 FEET;

3. N 90°00'00" E A DISTANCE OF 160.49 FEET;

-continued-

4. N 00°00'00" W A DISTANCE OF 202.08 FEET;

5. S 90°00'00" E A DISTANCE OF 742.86 FEET;

6. S 00°00'00" E A DISTANCE OF 133.33 FEET;

7. N 81°14'48" E A DISTANCE OF 80.90 FEET;

8. S 08°45'12" W A DISTANCE OF 130.00 FEET;

9. S 81°14'48" W A DISTANCE OF 17.15 FEET;

10. S 00°00'00" E A DISTANCE OF 409.20 FEET;

11. S 90°00'00" W A DISTANCE OF 206.84 FEET; TO THE POINT OF BEGINNING. CONTAINING 14.01 ACRES OF LAND, MORE OR LESS.

TOGETHER WITH THE FOLLOWING ACCESS & UTILITY EASEMENT:

ALL THAT CERTAIN TRACT OR PIECE OF LAND SITUATE IN THE TOWN OF BENNINGTON, COUNTY OF WYOMING, STATE OF NEW YORK INTENDED TO DESCRIBE AN ACCESS & UTILITY EASEMENT OVER THE LANDS OF EDWARD HOBART HALSTED & TERRY AN HALSTED (TAX# 4.00-1-3.1) BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF CHURCH ROAD (49.5 FEET WIDE), SAID POINT BEING DISTANT 283.79 FEET WESTERLY FROM THE EASTERLY LINE OF LOT NO. 4, AS MEASURED ALONG THE SAID NORTHERLY LINE OF CHURCH ROAD, SAID POINT HAVING THE COORDINATES OF N 1041446.708, E 1204758.091 (NY STATE PLANE COORDINATE ZONE 3103 NY W, NAD_83(2011));

THENCE S 89°53'23" W ALONG THE SAID NORTHERLY LINE OF CHURCH ROAD, A DISTANCE OF 113.60 FEET;

THENCE, THROUGH THE SAID LANDS OF EDWARD HOBART & TERRY ANN HALSTED THE FOLLOWING TEN (10) COURSES AND DISTANCES:

1. N 01°22'07" W A DISTANCE OF 891.59 FEET;

2. N 46°07'49" W A DISTANCE OF 28.16 FEET;

3. S 89°18'48" W A DISTANCE OF 58.40 FEET;

-continued-

COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

4. N 00°41'12" W A DISTANCE OF 40.00 FEET;

5. N 89°18'48" E A DISTANCE OF 58.40 FEET;

6. N 43°44'20" E A DISTANCE OF 27.32 FEET;

7. N 01°22'07" W A DISTANCE OF 7.16 FEET;

8. N 89°43'58" E A DISTANCE OF 48.45 FEET;

9. S 01°17'20" E A DISTANCE OF 885.35 FEET;

10. S 36°36'22" E A DISTANCE OF 115.20 FEET TO THE POINT OF BEGINNING. CONTAINING 1.22 ACRES OF LAND, MORE OR LESS.

Title No: WTA-24-012873 (AMENDED 4)

COMMITMENT FOR TITLE INSURANCE
SCHEDULE B-I, REQUIREMENTS

Proposed Insured agrees to Pay and/or disburse the agreed amounts for the interest in the land to be insured and/or according to the mortgage to be insured; Pay us the premiums, fees and charges for the policy; Pay all taxes and/or assessments, levied and assessed against the land, which are due and payable.

In addition to the above, the following requirements must be met:

1. Any rights, interests or claims of parties in possession of the land not shown by the public records.

2. Returns, if any, of title search continuation since the effective date shown on Schedule A herein.

3. The following endorsement(s) are to be added to the final policy:

   1st Loan Policy: TIRSA NY Standard, EPL, Access, Contiguity (ATLA 19.2-06), Land Same as Survey, Mortgage Tax, WOA, ALTA 9.3-06, Leasehold, ALTA 36.6-06, ALTA 18-06

   2nd Loan Policy: TIRSA NY Standard, EPL, Access, Contiguity (ATLA 19.2-06), Land Same as Survey, Mortgage Tax, WOA, ALTA 9.3-06, Leasehold, ALTA 36.6-06, ALTA 18-06

   Note: This Company should be contacted prior to closing to provide any endorsement(s) required, and to calculate the applicable endorsement charge(s).

4. Proof of payment of taxes, tax liens, tax sales, water rates, sewer rents, user fees and assessments:

   2025 County/Town Tax - $2,980.39 Unpaid, due January 31, 2025
   2024 County/Town Tax - $6,453.97 Paid
   2024/25 School Tax - $2,944.28 Paid

5. Any state of facts that may be disclosed by any municipal or departmental searches. Said searches together with zoning issues are not covered under any title insurance policy issued.

6. Mortgages: **NONE**

7. Proposed insured documents not provided at the time of examination.

8. The following items must be submitted to this Company following closing:

   - ALL Affidavits & Forms Attached to this Commitment
   - Fully Executed HUD-1 Settlement Statement
   - Purchaser/Borrower Identification
   - Seller Identification, if the seller is a natural person

-continued-

Title No: WTA-24-012873 (AMENDED 4)

COMMITMENT FOR TITLE INSURANCE
SCHEDULE B-I, REQUIREMENTS

8. Continued

- Payment of Fee and/or Loan Premiums
- Curatives, as required, to omit Schedule B-II items.
- Proof of payment of all real estate taxes.
- Copies of Insured Documents, if this Company is not recording the same.

Receipt of requested items are required in order to issue final policy. Copies can also be emailed to policies@webtitle.us.

9. Patriot searches have been made vs. the name(s) of **Edward Hobart Halsted, Terry Ann Halsted and NY Bennington I, LLC**, and the following returns have been found:

NONE

10. New York (All) District Bankruptcy searches have been made vs. the name(s) of **Edward Hobart Halsted and Terry Ann Halsted** and the following returns have been found:

NONE

11. Proof of death of prior owner, Marjorie Halsted, is required. Said individual holds a life estate interest from a prior deed.

Note: The above will be omitted with an affidavit from Edward Hobart Halstead and Terry Ann Halstead reciting that Marjorie Halstead is deceased and her date of death.

12. **NY Bennington I, LLC** is a New York Limited Liability Company and the following is required:

a) Copy of articles of organization, proof of filing with the Department of State and payment of filing fees, and proof of publication of the formation.
b) Copy of operating agreement must be reviewed for authorization and dissolution provisions.
c) Proof is required that the party or parties executing instruments on behalf of the LLC have authority to act.
d) Certificate of Good Standing from the New York Department of State, showing all statements are current.
e) Affidavit must be obtained to the effect that none of its members are dead, bankrupt, incapacitated, or dissolved nor have any members been expelled nor have withdrawn from membership.
f) If the managing member is another entity, then Operating Agreement, Articles of Organization, proof of filing and authority to execute are required for the entity member.

Company reserves the right to raise additional exceptions upon examination of the same.

COMMITMENT FOR TITLE INSURANCE
SCHEDULE B-I, REQUIREMENTS

13. Company will require the following prior to closing:

    a) **OMITTED, CBL, 1-27-2025**: Survey with metes and bounds legal description of the insured leasehold parcel; Commitment may be subject to revisions.
    b) **OMITTED, CBL, 1-27-2025**: Memorandum of Assignment of Lease to NY Bennington I LLC, as Lessee, along with Memorandum of Lease for the Original 2021 Lease and its First Amendment (all showing on Schedule A). Said Memorandums must be recorded at closing in the land records.
    c) **OMITTED, CBL, 1-27-2025**: Easement or Right of Way providing ingress and egress from the leasehold parcel to the nearest public highway, as applicable.

14. Estoppel Certificate regarding the current lease be obtained for closing confirming that the lease is in full force and effect and there are no defaults thereunder. Company reserves the right to raise additional requirements and/or exceptions, upon final review.

15. **OMITTED, CBL, 1-28-2025**: Company will require approval to insure by Fidelity National Title due to high liability amount. This commitment is subject to their approval. Company reserves the right to raise additional requirements.

16. Terms and Conditions of Building Loan Contract to be filed on or before recordation of the construction mortgage. Affidavits pursuant to Section 22 of the Lien Law are to accompany the mortgage.

17. Questions about this report should be directed to Christine Liberi at cliberi@webtitle.us.

18. **BXW II, LLC** is a Delaware Limited Liability Company and the following is required:

    a) Copy of articles of organization, proof of filing with the Department of State and payment of filing fees, and proof of publication of the formation.
    b) Copy of operating agreement must be reviewed for authorization and dissolution provisions.
    c) Proof is required that the party or parties executing instruments on behalf of the LLC have authority to act.
    d) Certificate of Good Standing from the Department of State.
    e) Affidavit must be obtained to the effect that none of its members are dead, bankrupt, incapacitated, or dissolved nor have any members been expelled nor have withdrawn from membership.
    f) If the managing member is another entity, then Operating Agreement, Articles of Organization, proof of filing and authority to execute are required for the entity member.

    Company reserves the right to raise additional exceptions upon examination of the same.

19. Company will require at closing, a Second Amendment to Lease Agreement, with Amended Memorandum to be recorded in the land records, for the lease dated October 21, 2023, disclosing the metes and bounds description of the leasehold parcel and the access & utility easement.

20. The 1st mortgage will be shown as a superior lien on the final loan policy insuring the 2nd mortgage.

Title No: WTA-24-012873 (AMENDED 4)

COMMITMENT FOR TITLE INSURANCE
SCHEDULE B-I, REQUIREMENTS

21. The 2nd mortgage will be shown as a subordinate lien on the final loan policy insuring the 1st mortgage.

Title No: WTA-24-012873 (AMENDED 4)

COMMITMENT FOR TITLE INSURANCE
SCHEDULE B-II, EXCEPTIONS

Any policy we issue will have the following exceptions, unless they are taken care of to our satisfaction:

1. Any rights, interests or claims of parties in possession of the land not shown by the public records.

2. Survey made by Nussbaumer & Clarke, Inc. and dated February 6, 2025 discloses that all improvements are located within the perimeter of the premises, and also discloses the following exceptions:

   a) Utility pole located at south area of the Access and Utility Easement Land.
   b) Underground telephone line and telephone box located at south area of the Access and Utility Easement Land.

3. No title insured to any lands lying within the bounds of any street or highway.

4. Easement to New York Telephone Company recorded July 28, 1977 in Liber 462 at page 48.

   Note: Affects Access and Utility Easements only.

5. **<u>OMITTED, SG, 2/13/2025</u>** Easement to New York State Electric & Gas Corporation recorded October 2, 1978 in Liber 377 at page 80.

6. Terms and conditions of Memorandum of Lease recorded June 22, 2023 in Liber 817 at page 575. Memorializes Lease dated October 21, 2021, between Edward H. Halsted and Terry A. Halsted, as husband and wife, Lessor, and Delaware River Solar, LLC, Lessee.

   First Amendment to Lease Agreement dated July 26, 2023, between Edward H. Halsted and Terry A. Halsted, as husband and wife, Lessor, and Delaware River Solar, LLC, Lessee.

   Memorandum of Assignment of Lease recorded August 21, 2023 in Liber 818 at page 555. Memorializes Assignment of Lease Agreement dated July 27, 2023 between Delaware River Solar, LLC and NY Bennington I LLC, Lessee.

7. **<u>(FOR THE 1ST LOAN POLICY)</u>** Pending disbursement of the full proceeds of the loan secured by the mortgage insured, this policy insures only to the extent of the amount actually disbursed but increases as each disbursement is made in good faith and without knowledge of any defect in or objections to the title up to the face amount of the policy. At the time of each disbursement of the proceeds of the loan, the title must be continued down to such time for possible liens or objections intervening between the date hereof and the date of such disbursement. Each report of continuation requested in connection with insurance of future advances will include a statement showing survey variations or encroachments, if any, since the date of the preceding report.

8. **<u>OMITTED, SG, 2/13/2025</u>** Possible covenants, easements, restrictions, coal and mineral rights, oil and gas rights, and underground encroachments as they may appear of record.

Title No: WTA-24-012873 (AMENDED 4)

COMMITMENT FOR TITLE INSURANCE
MORTGAGE SCHEDULE

NONE

FIDELITY NATIONAL TITLE INSURANCE COMPANY

Title No: WTA-24-012873 (AMENDED 4)

LLC AFFIDAVIT

PREMISES: Church Road, Bennington, NY 14040

Gregg H. Beldock, Co-Manager and Michael W. Mills, Co-Manager of BXW II, LLC, a Delaware limited liability company, sole member and Manager of NY Bennington I, LLC, a New York limited liability company, being duly sworn, deposes and says:

That Deponents are citizens of the United States of America; over the age of twenty-one years, and members and/or managers of the above referenced LLCs, both LLCs duly organized and existing under and by virtue of the Laws of the State where the LLCs were established, and as such members/managers, are duly authorized to make this affidavit.

That the articles of organization of the above referenced LLCs were duly published for six (6) consecutive weeks and proof thereof was duly filed in the office of the Secretary of State and that the LLCs are now in good standing thereunder. That the articles of organization have not been modified since its formation, and that as members/managers we have authorization to execute closing documents for real estate transactions.

That BXW II, LLC, is the sole member/manager of NY Bennington I, LLC and no other person or entity has any ownership interest in (or claim against any member's interest in) except as notated in the Organizational Chart annexed hereto.

That none of its members are dead, bankrupt, incapacitated, or dissolved nor have any members been expelled nor have withdrawn from membership.

That there are no judgments, injunctions, decrees, attachments, or orders of any court for the payment of money against said LLC or to which it is a party, unsatisfied or not cancelled of record in any of the federal or state courts of the United States of America or any suit or proceeding pending anywhere affecting the Property.

That no case or proceeding in bankruptcy has ever been instituted by or against either LLC or any of its members in any federal or state court of the United States of America nor has either LLC at any time made an assignment for the benefit of creditors. No filing in bankruptcy is contemplated by either LLC.

That no statement of fact has been omitted by Deponent(s) from this affidavit which would make this affidavit misleading or incorrect, or which, with the mere passage of time, would make this affidavit misleading or incorrect. This affidavit is intended to be relied on by induce WebTitle Agency and its Underwriter to issue a policy of insurance covering the above stated premises.

By: BXW II, LLC, a Delaware limited liability company, its sole member and Manager

By: _________________________
Gregg H. Beldock, Co-Manager

By: _________________________
Michael W. Mills, Co-Manager

STATE OF NEW YORK **COUNTY OF _______________________________**

On the _________________ day of ___________________________________ in the year in the year 2025, before me, the undersigned, personally appeared Gregg H. Beldock, Co-Manager and Michael W. Mills, Co-Manager of BXW II, LLC, 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 on behalf of which the individual(s) acted, executed the instrument.

____
Notary Public

Commission Expires: _____________________

FIDELITY NATIONAL TITLE INSURANCE COMPANY

Title No: WTA-24-012873 (AMENDED 4)

MEMORANDUM OF TITLE FEES

THIS IS NOT AN INVOICE. DO NOT PAY FROM THIS MEMORANDUM.

New York State Insurance Law Section 2119 (f) & 35.6 (a) requires that we provide you with, and that you sign, this memorandum that specifies the cost of any ancillary services that we provide together with the title insurance premium being charged.

PROPERTY ADDRESS: Church Road, Bennington, NY 14040

	Borrower Charge	Amount
☒	Loan Premium (1st Policy)	$19,633.00
☒	Loan Endorsements (1st Policy)	$1,582.00
☒	Loan Premium (2nd Policy)	$2,804.00
☒	Loan Endorsements (2nd Policy)	$1,100.00
☒	Land Records Search (Continuation)	$125.00
☒	Examination of Title	$250.00
☒	Tax Search	$75.00
☐	Bankruptcy, Tax and Patriot Searches	
☐	Judgment & Lien Search	
☐	UCC Search State Search	
☐	UCC County Search	
☒	Continuation Search	$250.00
☐	Information Searches	
☐	Foreclosure Review	
☐	Overnight / Courier Fees	
☒	Recording Service Fee	$250.00
☐	Document Copies	
☐	Title Binder	
		$26,069.00

Please note that additional fees may be billed at closing.

By: _________________________
Gregg H. Beldock, Co-Manager

By: _________________________
Michael W. Mills, Co-Manager

Title No: WTA-24-012873 (AMENDED 4)

NOTICES

All of the recording information contained herein refers to the Public Records of the County shown on Schedule A herein, unless otherwise indicated. Any reference herein to a Book and Page is a reference to the Official Record Books of said county, unless indicated to the contrary.

All notices required to be given and any statement in writing required to be furnished by the Company or to the Company shall include the number of this policy.

WebTitle Agency cares about its customers and their ability to obtain information and service on a convenient, timely and accurate basis. A qualified staff of service representatives is dedicated to serving you. A toll-free number is available for your convenience in obtaining information about coverage and to provide assistance in resolving complaints at 1-866-932-6322. Office hours are from 8:00 a.m. through 5:00 p.m. Monday through Friday.

Title No: WTA-24-012873 (AMENDED 4)

PRIVACY POLICY

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our Underwriter, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or other means.
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

EXHIBIT D

DESCRIPTION OF THE PROJECT

The construction and equipping of a 2.063 megawatt (MW) (AC) solar photovoltaic electric generating facility comprised of racking, solar modules, inverters, electrical wiring and other system components and related improvements to be located at 1667 Church Road in the Town of Bennington, Wyoming County, New York.