AGENCY PROJECT AGREEMENT

THIS AGREEMENT is made as of the 8th day of June, 2017, by and between the **Tompkins County Industrial Development Agency** ("the Agency"), a public benefit corporation of the State of New York, having its offices at 401 East State Street, Suite 402B, Ithaca, New York 14850; and **NY Enfield I, LLC** ("The Company"), a limited liability company duly formed and validly existing pursuant to the laws of the State of New York, with a business address of 33 Irving Place, Suite 1090, New York, New York 10003.

WITNESSETH:

WHEREAS, the Agency was created by Section 895 of the General Municipal Law of the State of New York pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company desires to acquire, construct and equip upon approximately 14 acres of real property currently the Company at 236 Podunk Road in the Town of Enfield, Tompkins County, New York (currently designated as part of Town of Enfield tax parcel number 1.-3-10.2) (the "Land") a new 2-megawatt community solar array to be used to generate electricity that will allow residential and commercial subscribers to receive renewable energy that will offset traditional power sources for the equivalent of 400-450 homes and businesses (hereinafter called the "Project"); and

WHEREAS, by Resolution dated May 11, 2017 and supplemented on June 8, 2017 (the "Resolution"), the Agency authorized the Company to act as its agent for the purposes of acquiring, constructing and equipping the Project as set forth above, subject to the Company entering into this Agency Project Agreement; and

WHEREAS, the Agency approved the following financial assistance to the Company, as set forth in the Resolution: a sales tax exemption for purchases and rentals related to the acquisition, construction and equipping of the project; a partial real property tax abatement through the PILOT Agreement; and a partial mortgage tax exemption for the financing related to the project; and

WHEREAS, the Agency purpose to be achieved by providing the financial assistance to the Company is as follows, as set forth in the Resolution: to induce the Company to develop the Project, thereby increasing employment opportunities in Tompkins County and otherwise furthering the purposes of the Agency as set forth in the Act;

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

1. Scope of Agency. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition, construction and equipping of the Project. The rights of the Company to act as agent of the Agency shall expire on **May 31, 2019**, unless extended as contemplated by the Resolution.

2. The parties are contemplating that the Agency and the Company will enter into a lease agreement from the Company to the Agency (the "Lease Agreement"), a leaseback agreement from the Agency to the Company (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement (the "PILOT

Agreement") with the Company. The Company agrees not to take title to any property as agent for the Agency until the Leaseback Agreement and PILOT Agreement have been executed and delivered.

3. Representations and Covenants of The Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project:

a. The Company is a limited liability company duly formed and validly existing under the laws of the State of New York, has the authority to enter into this Agreement, and has duly authorized the execution and delivery of this Agreement.

b. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

c. The Project and the operation thereof will conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Project, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection.

d. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, an in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill their obligations under this Agreement.

e. The Company covenants that the Project will comply in all respects with all environmental laws and regulations, and, except in compliance with environmental laws and regulations: (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist at the Project except in compliance with all material applicable laws; (ii) that the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances at the Project or onto any other property, (iii) that no asbestos will be incorporated into or disposed of at the Project; (iv) that no underground storage tanks will be located at the Project, and (v) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company, upon receiving any information or notice contrary to the representations contained in this section, shall immediately notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its executive director, directors, members, officers, employees, agents, representatives, successors and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorney's fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this section. In the event the Agency in its reasonable discretion deems it necessary to perform

due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Project, the Company agrees to pay the expenses of same to the Agency upon demand, and agrees that upon failure to do so, its obligation for such expenses shall be deemed to be additional rent.

f. The Agency encourages the Company to use an open bidding process for construction contracts; to give opportunities for employment in the construction of the Project to persons residing in Tompkins County, New York; and to award contracts for work in connection with the Project to eligible business concerns which are located in, or owned in substantial part by persons residing in, Tompkins County, New York.

g. The Company commits to the following investment amount: **$4,615,649.00**.

h. The Company states that the current number of jobs it provides is **0** and projects that the Project will result in the creation of the following number of jobs: **0**.

i. The Company makes the following commitment regarding the use of local labor: **compliance with the Agency's Local Labor Utilization Policy**.

j. The Company shall provide a certified statement and documentation annually, containing the following information, and such other information required by the Agency:

   i. The number of full time equivalent ("FTE") jobs retained and/or created as a result of the financial assistance, by category, including FTE independent contractors or employees of independent contractors that work at the project location;

   ii. That the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that were provided in the application are still accurate, and if it is not still accurate, a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and/or jobs created.

k. In accordance with Section 875(3) of the New York General Municipal Law, the Company covenants and agrees that, if it receives New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") from the Agency, and it is determined that: (i) the Company is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project, then the Company will (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands in connection therewith. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine New York State and local sales and use taxes due from the Company, together with any relevant penalties and interest due on such amounts.

l. The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in amount up to **$3,265,775**, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed **$261,262**.

m. Provided that such abatement is authorized by applicable law, the Company will receive an abatement of a portion of the mortgage recording tax, in the amount of one-quarter of one percent of the total amount of the mortgage (for example, if the Company borrows $2,500,000.00, the amount of the mortgage tax that will be abated is $6,250.00). The Company will make a payment at closing in lieu of the remaining portion of the mortgage recording tax, in the amount of three-quarters of one percent of the total amount of the mortgage.

4. Payments in Lieu of Taxes ("PILOT" payments): The Company will make PILOT payments as set forth in the PILOT Agreement to be executed by the parties. The estimated dates when PILOT payments are to be made and the estimated amounts to be paid to each affected taxing jurisdiction, or a formula by which the amounts will be calculated, are as follows: **see Schedule A attached hereto**.

5. Suspension or discontinuance of financial assistance; return of all or part of financial assistance: The Company shall be subject to discontinuance of financial assistance and the return of all or part of the financial assistance provided by the Agency as set forth in the Agency Recapture Policy.

6. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, officers, members, employees, agents (except The Company), representatives, successors and assigns harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Project or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Agency's financing, rehabilitating, renovation, equipping, owning and leasing of the Project, including without limitation the generality of the foregoing, all causes of action and reasonable attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

7. Insurance Required. Effective as of the date hereof and until the Agency consents in writing to a termination, the Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

a. Property insurance covering such perils and in such amount as is consistent with standard industry practice and the requirement of the Company's Financing Parties, if any.

b. Worker's Compensation insurance, disability benefits insurance, and each 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 employees of the Company who are located at or assigned to the Project (this coverage shall be in effect from and after the date of completion of the construction of the Facility or such earlier date on which any employees of the Company first occupy the Facility).

c. Commercial general liability insurance written on an occurrence basis, including blanket contractual liability and coverage for personal injury, including injury or death, or damage to the property of others caused by an accident or occurrence with a limit of liability of not less than $1,000,000.00 for personal injury, including bodily injury or death, and property damage resulting from any one occurrence, and with an aggregate limit of not less than $2,000,000.00, protecting the Agency (as additional insured) and the Company against any loss or liability or damage for personal injury or property damage.

8. Additional Provisions Regarding Insurance.

a. All insurance required by paragraph 7 (including subparagraphs a through c) hereof shall be procured and maintained with financially sound and generally recognized insurance companies authorized to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged.

b. All policies evidencing such insurance shall name the Agency as additional insured and shall provide for at least thirty (30) days written notice to the Agency prior to cancellation, provided such feature is available on commercially reasonable terms. The general liability insurance required hereunder shall be in form, content, and coverage satisfactory to the Agency.

c. The Company shall deliver to the Agency, on or before the first business day of each year, a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amount and of the types required by paragraphs 7 through 7c hereof. At least thirty (30) days prior to the expiration of any such policy, the Company shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by the Leaseback Agreement.

d. All premiums with respect to the insurance required by paragraphs 7 through 7c hereof shall be paid by the Company, provided, however, that, if the premiums for the Company's general liability coverage are not timely paid, the Agency may, ten (10) days after providing written notice thereof if the Company has not paid on or before such date, pay such premiums and the Company shall pay immediately upon demand all sums so expended by the Agency, together with interest thereon at the Default Rate from the date payment is made by the Agency to the date reimbursement is made by the Company.

9. Errors and Omissions; Compliance. In consideration for the assistance provided to the Company by the Agency, the Company agrees, if requested by Agency, to fully cooperate and execute and/or re-execute any document that should have been signed at or before the closing of the transaction

described in this Agreement, or a corrected or modified version of any such documents, where the document was inadvertently not executed at or before the closing, or the version executed at or before the closing contained any typographical, clerical or mathematical error, or erroneously contained or omitted any provision that does not conform with the statutory authority and established policies of the Agency.

10. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but which together shall constitute a single instrument.

11. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency:	Tompkins County Industrial Development Agency 401 East State Street, Suite 402B Ithaca, New York 14850
With a copy to:	Mariette Geldenhuys, Attorney and Mediator 401 East State Street, Suite 306 Ithaca, New York 14850
To the Company:	NY Enfield I, LLC 33 Irving Place, Suite 1090 New York, New York 10003
With a copy to:	Law Office of Richard Chun, PLLC 33 Irving Place, Suite 1090 New York, New York 10003

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this section.

12. This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein, and the parties hereby agree to submit to the personal jurisdiction of the federal or state courts located in Tompkins County, New York.

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

Tompkins County Industrial Development Agency

By: _____
Name: Heather D. McDaniel
Title: Administrative Director

NY Enfield I, LLC

By: Peter Dolgos
Name: Peter Dolgos
Title: SVP

CERTIFICATION

Peter Dolgos *[Name]*, the Senior Vice President *[Title]* of NY Enfield I, LLC hereby certifies under penalty of perjury that the Company is in substantial compliance with all local, state, and federal tax, worker protection, and environmental laws, rules, and regulations.

NY Enfield I, LLC

Date: 8/7, 2018

By: Peter Dolgos
Name: Peter Dolgos
Title: SVP

SCHEDULE A

Payment-in-Lieu-of-Tax ("PILOT") Agreement abatement schedule

The property tax abatement schedule deviates from the IDA's standard abatement schedule. The term of the PILOT Agreement is twenty years, with a payment of $8,000 per megawatt (AC) in year one plus a 2% increase each year.

With respect to the portion of the assessed value of the subject premises attributable to the improvements to be constructed thereon, the following percentages of the general real property taxes which would be due in respect of the improvements to the premises (i.e., the assessed value of the improvements to the premises) but for its record ownership by the Agency (but without any reference to, or utilization of, Section 485-b of the Real Property Tax law of the State of New York), based on a current assessment of such improvements, commencing the first tax status date following the date of execution of the PILOT Agreement *(assumes PILOT execution after March 1, 2017 but prior to March 1, 2018)*:

YEAR OF EXEMPTION		PAYMENT MADE
1	2018-19 School; 2019 Town & County	$16,000
2	2019-20 School; 2020 Town & County	$16,320
3	2020-21 School; 2021 Town & County	$16,646
4	2021-22 School; 2022 Town & County	$16,979
5	2022-23 School; 2023 Town & County	$17,319
6	2023-24 School; 2024 Town & County	$17,665
7	2024-25 School; 2025 Town & County	$18,019
8	2025-26 School; 2026 Town & County	$18,379
9	2026-27 School; 2027 Town & County	$18,747
10	2027-28 School; 2028 Town & County	$19,121
11	2028-29 School; 2029 Town & County	$19,504
12	2029-30 School; 2030 Town & County	$19,894
13	2030-31 School; 2031 Town & County	$20,292
14	2031-32 School; 2032 Town & County	$20,698
15	2032-33 School; 2033 Town & County	$21,112
16	2033-34 School; 2034 Town & County	$21,534
17	2034-35 School; 2035 Town & County	$21,965
18	2035-36 School; 2036 Town & County	$22,404
19	2036-37 School; 2037 Town & County	$22,852
20	2037-38 School; 2038 Town & County	$23,309
21	Thereafter	no abatement, full taxes paid