

## PROJECT AGREEMENT

THIS **PROJECT AGREEMENT** (the "Project Agreement"), is made as of September 13, 2024, by and between the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**, a public benefit corporation of the State of New York, having its offices at 99 MedTech Drive, Suite 106, Batavia, New York, 14020 (the "Agency"), and **HECATE ENERGY CIDER SOLAR LLC**, a Delaware limited liability company, with offices at 621 W. Randolph Street, Chicago, Illinois 60661 (the "Company").

### WITNESSETH:

WHEREAS, the Agency was created by Chapter 565 of the Laws of 1970 of the State of New York pursuant to Title I 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 (the "State"); and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of an interest in the Company's fee, leasehold, and easement interests in certain parcels of land located in the Town of Elba and the Town of Oakfield, Genesee County, New York (the "Land", being more particularly described in Schedule D attached hereto); (ii) the planning, design, construction and operation of a 500MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility"); and

WHEREAS, by Resolution adopted on December 1, 2022 (the "Resolution"), the Agency authorized the Company to act as its agent for the purposes of undertaking the Project, subject to the Company entering into this Project Agreement; and

WHEREAS, by the Resolution, the Agency approved certain financial assistance for the benefit of the Company in connection with the Project consisting of: (a) an exemption from all New York State and local sales and use tax for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, (b) a partial abatement from real property taxes conferred through a certain tax agreement, between the Agency and the Company (the "Tax Agreement") requiring the Company to make payments-in-lieu-of-taxes for the benefit of each municipality and school district having taxing jurisdiction over the Project and (c) a mortgage recording tax exemption as authorized pursuant to the laws of the State of New York (collectively, the sales and use tax exemption benefit, the partial abatement from real property taxes benefit and the mortgage recording tax exemption are hereinafter referred to as, the "Financial Assistance"); and

WHEREAS, pursuant to and in accordance with Sections 859-a and 874 of the Act, the Agency requires, as a condition and as an inducement for it to provide any Financial Assistance, that the Company enter into this Project Agreement for the purposes of, among other things, governing the administration of, and providing assurances with respect to, the provision and recapture of said Financial Assistance upon the terms herein set forth; and

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

WHEREAS, a copy of the Tax Agreement is attached hereto as **Exhibit F** in accordance with Section 859-a(6)(c) of the Act; and

WHEREAS, no agency appointment of the Company or any Subagent (as defined in Section 4.3 hereof), nor any amount of Financial Assistance shall be provided to the Company by the Agency prior to the effective date of this Project Agreement.

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

#### ARTICLE I. DEFINITIONS

Section 1.1 Definitions of Terms. The words and terms as used in this Project shall have the same meanings as used in **Schedule A** attached hereto and made a part hereof, unless the context or use indicates another or different meaning or intent. All capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Leaseback Agreement.

#### ARTICLE II. REPRESENTATIONS AND COVENANTS

Section 2.1 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/Facility:

(a) The Company is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware and authorized to conduct business in the State of New York, has the authority to enter into this Project Agreement, and has duly authorized the execution and delivery of this Project Agreement.

(b) Neither the execution and delivery of this Project Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Project Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any material restriction or any material agreement or instrument to which the Company is a party or by which it is bound, or will constitute a material 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 Facility and the operation thereof will conform in all material respects with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and hold the Agency harmless from any liability or reasonable expenses resulting from any failure by the Company to comply with the provisions of this Section 2.1(c).

(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, and in which a material adverse result would in any way materially diminish or materially adversely impact on the Company's ability to fulfill its obligations under this Project Agreement.

(e) The Company covenants that (i) the Company's construction, ownership and operation of the Facility will comply in all material respects with all applicable Environmental Laws (as defined in the Environmental Compliance and Indemnification Agreement to be executed and delivered by the Company to the Agency (the "Environmental Compliance Agreement")) and regulations, and, except in compliance with such Environmental Laws and regulations; (ii) that no Hazardous Substances (as defined in the Environmental Compliance Agreement) will be stored, treated, generated, disposed of, or allowed to exist by the Company or any Subagents on the Facility except in compliance with all material applicable laws; (iii) that the Company will take all reasonable and prudent steps to prevent an unlawful release of any such Hazardous Substances by the Company onto the Facility or onto any other property, (iv) that no asbestos will be incorporated into or disposed of by the Company on the Facility, (v) to the best of the Company's knowledge without inquiry, there are not now any underground storage tanks on or under the Land, and (vi) that to the Company's knowledge, 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 (other than the Company), representatives, successors, and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In accordance with the Environmental Compliance Agreement, in the event the Agency in its reasonable discretion has cause to suspect a release of any Hazardous Substance has occurred or is imminent and deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed by a consultant reasonably acceptable to the Company with respect to the Facility, the Company agrees to pay the reasonable expenses of same to the Agency upon written demand accompanied by supporting documentation, and agrees that upon failure to do so, its obligation for such reasonable expenses shall be deemed to be additional rent. The Company hereby agrees that at all times during which it is operating the Project, and whether or not this Project Agreement is in effect, to comply with the provisions of the Environmental Compliance Agreement. Notwithstanding anything to the contrary in this Project Agreement, (1)

the Company makes no representations, warranties or covenants regarding Hazardous Substances or the presence thereof on any real property other than the Facility, (2) the Company shall have no obligation to ensure the owners of parcels adjacent to or in the vicinity of any of the Facility, or the underlying landowners of the land on which the Facility sits or any tenants thereof (other than the Company and/or any Subagents), comply with Environmental Laws or keep such parcels free of Hazardous Substances, (3) the Company shall have no obligation to the Agency or any other entity or person with respect to past or future actions or omissions of the underlying landowners of the land on which the Facility sits or any tenants thereof (other than the Company) and their use or occupancy (or the use or occupancy of their tenants) thereof (other than its own in the context of land on which the Facility sits that is owned by the Company), and (4) the Company shall have no obligation to indemnify or defend the Agency for violations of Environmental Laws by third parties (except any Subagents) or releases of Hazardous Substances by third parties (except any Subagents) at any time occurring on parcels adjacent to or in the vicinity of any of the Facility.

(f) Any personal property acquired by the Company or any Subagent as an agent of the Agency shall be located in Genesee County or delivered to the Facility, except for temporary periods during ordinary use.

(g) The Company hereby represents to the Agency that facilities and property that are primarily used in making retail sales of goods and services to customers who personally visit the Facility will not constitute more than one-third (1/3) of the total costs of the Facility, except in accordance with New York General Municipal Law (the "GML") Section 862.

(h) The Company acknowledges and agrees that, except to the extent of bond proceeds (to the extent bonds are issued by the Agency with respect to the Project), the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations) in connection with the acquisition, construction, installation and equipping of the Facility, and the Company shall be the sole party liable thereunder.

(i) The Company covenants and agrees that at all times during the term of this Project Agreement, it will (i) maintain its existence and not dissolve, (ii) continue to be a limited liability company subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise sell, assign, or dispose of all or substantially all of its property, business or assets, except as permitted by the Leaseback Agreement.

(j) The Company confirms and acknowledges under the penalty of perjury that as of the date hereof, the Company, as owner, occupant, or operator of the Project receiving Financial Assistance from the Agency in connection with the Project, is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations. The Company agrees that it will, throughout the term of this Project Agreement, promptly comply in all material respects with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments,

commissions, boards, companies or associations insuring the Facility, courts, authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof. Notwithstanding the foregoing, the Company may in good faith contest the validity of the applicability of any requirement of the nature referred to this Section 2.1(j). In such event, the Company, with the prior written consent of the Agency (which shall not be unreasonably conditioned, delayed or withheld), may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom.

(k) The Company hereby agrees that at all times during which it is operating the Facility, and whether or not the Leaseback Agreement is in effect to comply with, and ensure compliance by its subtenants or sublessees with, the provisions of the Environmental Compliance Agreement.

(l) The Company hereby acknowledges and agrees that the Financial Assistance constitutes "public funds" unless otherwise excluded under Section 224-a(3) of the New York Labor Law, and by executing this Project Agreement, (i) confirms that it has received notice from the Agency pursuant to Section 224-a(8)(d) of the New York Labor Law and (ii) acknowledges its obligations pursuant to Section 224-a(8)(a) of the New York Labor Law. Other than the Financial Assistance estimates provided by the Agency herein and disclosed to the Company, the Agency makes no representations or covenants with respect to the total sources of "public funds" received by the Company in connection with the Project. If and to the extent that the Company determines that it is necessary and desirable to reduce the overall amount of "public funds" to be received by the Company in connection with the Project, the Agency agrees to work cooperatively with the Company to adjust the total amount of Financial Assistance to be provided to the Company, which will include, but may not be limited to amending this Project Agreement and/or the Tax Agreement (and if the term of the Tax Agreement is modified, the corresponding terms of the Lease Agreement and Leaseback Agreement shall be modified accordingly).

### ARTICLE III. GENERAL

Section 3.1 Purpose of Project. The purpose of the Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the acquiring, constructing, installing and equipping of the Facility, to advance job opportunities, health, general prosperity and economic welfare of the people of the Genesee County, New York, and to specifically promote the investment commitment, employment commitment, and other commitments of the Company contained herein and in the Application.

### ARTICLE IV. FINANCIAL ASSISTANCE AND RECAPTURE OF BENEFITS

Section 4.1 In accordance with the Resolution, the Company further: (i) covenants, with respect to the Sales Tax Exemption, that it shall comply with this Project Agreement, specifically, but not limited to, Section 4.3 hereof; (ii) confirms that the Mortgage Recording Tax Exemption (as defined in Section 4.7 hereof) shall not exceed one percent

(1.00%) times the Maximum Mortgage Principal Amount, as more fully described in Section 4.7 hereof; and (iii) confirms that real property tax abatement to be provided to the Company shall conform to the Tax Agreement, the terms of which Tax Agreement shall comply with the Agency's Uniform Tax Exemption Policy (the "UTEP") in the absence of a deviation therefrom. The Agency has complied with the procedures for deviation and determined to deviate from the UTEP for the Tax Agreement.

Section 4.2            Tax Agreement.    The parties hereto have executed the Lease Agreement, Leaseback Agreement and Tax Agreement. As provided in the Tax Agreement, the Company agrees to certain payments (as described in the Tax Agreement) in addition to paying all special ad valorem levies, special assessments or special district taxes and service charges against real property in the jurisdiction where the Facility is located.

Section 4.3            Sales Tax Exemption.

(a)    The Agency hereby appoints and confirms its appointment of the Company as the true and lawful agent of the Agency to undertake the Project. Such appointment was made by the Agency pursuant to the Resolution. The Company shall have the right to delegate its Sales Tax Exemption agency hereunder to any contractor, subcontractor or other party appointed by the Company as an indirect agent of the Agency for sales tax exemption purposes performing work or making purchases in connection with the acquisition, construction, installation and equipping of the Facility (each a "Subagent").

(b)    The Company, as agent of the Agency, will undertake the Project. The Company hereby agrees to limit its activities as agent of the Agency under the authority of the Resolution to acts reasonably related to the acquisition, construction, installation and equipping of the Facility. The right of the Company to act as agent of the Agency shall expire on the earlier of (x) the completion of the Project (including all site restoration and landscaping work associated therewith), or (y) **December 31, 2027** ("Termination Date"); *provided, however*, that the Agency, through its President/CEO, may extend the Company's agent appointment at its discretion upon the written request of the Company if such activities and improvements are not completed by such time, and further provided that the Agency shall not unreasonably condition, withhold or delay its consent to the extension of such appointment.

(c)    Agency's Exempt Status. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and therefore, in the exercise of its governmental functions, is exempt from the imposition of Sales and Use Taxes. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required. Notwithstanding the foregoing, the Agency makes no representation to the Company, any Subagent or any third party that any Sales Tax Exemption is available under this Project Agreement.

(d)    Scope of Authorization of Sales Tax Exemption. The Agency hereby authorizes the Company and any Subagent to whom the Company has delegated its sales tax exemption agency, subject to the terms and conditions of this Project Agreement, to act as its agent in connection with the Project for the purpose of effecting purchases and rentals of materials, equipment, goods and services relating to the acquisition, construction, installation and

equipping of the Facility so that such purchases and leases are exempt from the imposition of Sales and Use Taxes. The Agency's authorization with respect to such Sales Tax Exemption provided to the Company and any Subagents pursuant to this Project Agreement shall be subject to the following limitations:

(i) The Sales Tax Exemption shall be effective only for a term commencing on the date hereof and expiring upon the earliest of (A) the termination of this Project Agreement, (B) the Termination Date, (C) failure of the Company to file Form ST-340, as described in Section 4.5 below, and failure to cure same within the allowable period to cure (D) the termination of the Sales Tax Exemption authorization pursuant to Section 6.2 or (E) the date upon which the Company received the Maximum Sales Tax Exemption.

(ii) The Sales Tax Exemption authorization set forth herein shall automatically be suspended upon written notice to the Company that the Company is in default under this Project Agreement (or related document) until such default is cured to the satisfaction of the Agency.

(iii) The Sales Tax Exemption authorization shall be subject to all of the terms, conditions and provisions of this Project Agreement.

(iv) The Sales Tax Exemption shall only be utilized for purchases or rentals of personal property acquired, installed, used or consumed in connection with the acquisition, construction, installation and equipping of the Facility and services associated with the acquisition, construction, installation and equipping of the Facility (and not with any intention to sell, transfer or otherwise dispose of any such item to a Person as shall not constitute the Company), it being the intention of the Agency and the Company that the Sales Tax Exemption shall not be made available with respect to any item unless such item is used solely by the Company at the Facility or in connection with the Project.

(v) The Sales Tax Exemption shall not be used to benefit any person or entity, including any tenant or subtenant located at the Facility, other than the Company, without the prior written consent of the Agency.

(vi) By execution by the Company of this Project Agreement, the Company agrees to accept the terms hereof and represents and warrants to the Agency that the use of the Sales Tax Exemption by the Company or by any Subagent is strictly for the purposes stated herein.

(vii) Upon the Termination Date, the Company and each Subagent shall cease being agents of the Agency, and the Company shall immediately notify each Subagent in writing of such termination.

(viii) The Company agrees that the aggregate amount of Sales Tax Exemption realized by the Company and by all Subagents, if any, in connection with the Facility shall not exceed in the aggregate the Maximum Sales Tax Exemption.

Section 4.4 Procedures for Appointing Subagents. If the Company desires to seek the appointment of a Subagent to act as an indirect agent of the Agency, including, but not limited, to the individuals and entities described on Schedule B attached hereto for the purpose of effecting purchases and rentals- which are eligible for the Sales Tax Exemption pursuant to authority of this Project Agreement, it must complete the following steps:

(i) The Company shall identify Subagents on Schedule B attached hereto. The Company shall have the right to amend Schedule B from time to time and shall be solely responsible for maintaining an accurate list of all parties acting as agent for the Agency. The Company's right to appoint Subagents is expressly conditioned upon updating of Schedule B attached hereto, along with, for each Subagent, the Company completing and submitting Form ST-60 to the Agency, attached hereto as Exhibit B. An Authorized Representative of the Agency must sign the Form ST-60 and return the same to the Company. Following receipt of the signed Form ST-60, the Company must file such Form ST-60 with the State Department of Taxation and Finance (the "Department") within thirty (30) days of the date that the Agency appoints a project operator or other person or entity to act as a Subagent of the Agency for purposes of extending the Sales Tax Exemption to such Subagent. The Company acknowledges and agrees that it shall be the Company's sole and exclusive responsibility to file a completed Form ST-60 with respect to any Subagent and the failure to timely do so could result in an Event of Default and Recapture Event (as hereinafter defined).

(ii) The Company shall ensure that each Subagent shall observe and comply with the terms and conditions of this Project Agreement.

(iii) Form ST-60 Not an Exemption Certificate. The Company acknowledges that the executed Form ST-60 designating the Company or any Subagent as an agent of the Agency shall not serve as a Sales Tax Exemption certificate or document. Neither the Company nor any Subagent may tender a copy of the executed Form ST-60 to any person required to collect sales or use tax as the sole basis to make such purchases exempt from tax. No such person required to collect sales or use taxes may accept the executed Form ST-60 in lieu of collecting any tax required to be collected. THE CIVIL AND CRIMINAL PENALTIES FOR MISUSE OF A COPY OF FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT OR FOR FAILURE TO PAY OR COLLECT TAX SHALL BE AS PROVIDED IN LAW. IN ADDITION, THE USE BY A SUBAGENT, THE COMPANY, OR OTHER PERSON OR ENTITY OF SUCH FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT SHALL BE DEEMED TO BE, UNDER ARTICLES TWENTY EIGHT AND THIRTY SEVEN OF THE NEW YORK STATE TAX LAW (THE "TAX LAW"), THE ISSUANCE OF A FALSE OR FRAUDULENT EXEMPTION CERTIFICATE OR DOCUMENT WITH THE INTENT TO EVADE TAX.

(iv) Form ST-123 Requirement and Form FT-123 Requirement. As an agent of the Agency, the Company agrees that it will, and will cause each Subagent to, present to each seller or vendor a completed and signed Form ST-123, attached



hereto as **Exhibit C-1**, for each contract, agreement, invoice, bill or purchase order entered into by the Company or by any Subagent, as agent for the Agency, for the purpose of undertaking the Project.

As an agent of the Agency, the Company agrees that it will, and will cause each Subagent to, present to each seller or vendor a completed and signed Form FT-123, attached hereto as **Exhibit C-2**, for each contract, agreement, invoice, bill or purchase order **for fuel** entered into by the Company or by any Subagent, as agent for the Agency, for the purpose of undertaking the Project.

For each Subagent, the Form ST-123 or Form FT-123 shall be completed as follows: (i) the "Project information" section of Form ST-123 or Form FT-123, attached hereto as **Exhibit C-1** and **Exhibit C-2** respectively, should be completed using the name and address of the Facility as indicated on the Form ST-60 used to appoint the Subagent and; (ii) the date that the Subagent was appointed as indicated on the Form ST-60.

All contracts entered into by the Company and all Subagents thereof as agent for the Agency shall include the language contained within **Schedule C** attached hereto. **Failure by the Company and/or any Subagent thereof to include such language may disqualify the agent status and Sales Tax Exemption derived by virtue of this Project Agreement. The Company, for itself and on behalf of all duly appointed Subagents, hereby agrees that all contracts entered into by the Company and any Subagents thereof shall be available to the Agency for inspection and confirmation of the foregoing mandatory language.**

Section 4.5 Form ST-340 Filing Requirement. During any calendar year in which the Sales Tax Exemption is claimed with respect to the Project, the Company shall annually file a statement with the Department on "Annual Report of Sales and Use Tax Exemptions" (NYS Form ST-340, a copy of which is attached hereto as **Exhibit D**) regarding the value of Sales Tax Exemption the Company and Subagents, if any, have claimed in connection with the acquisition, construction, installation and equipping of the Facility in accordance with General Municipal Law Section 874(8). **Please note, the Company is to report only the Sales Tax Exemption derived as a result of the Agency's participation in the Project and not those received as a result of other available State exemptions. For the avoidance of doubt, other State exemptions, which the Company should not report on its NYS Form ST-340, include, but are not limited to, exemptions available to certain manufactures or those exemptions that apply to capital improvements.** On or before February 15<sup>th</sup> of each year, the Company shall provide a copy of same to the Agency. 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 and/or Recapture of Agency Benefits as described in Section 4.8 hereof.

Section 4.6 GML Provisions Relating to Sales Tax Savings.

(a) The Company covenants and agrees to comply, and to cause each of its contractors, subcontractors, Subagents, persons or entities to comply, with the requirements of

GML Sections 875(1) and (3) (the "GML Provisions"), as such provisions may be amended from time to time. In the event of a conflict between the other provisions of this Project Agreement and the GML Provisions, the GML Provisions shall control.

(b) The Company acknowledges and agrees that pursuant to GML Section 875(3), the Agency shall have the right to recover, recapture, receive, or otherwise obtain from the Company, Sales Tax Savings taken or purported to be taken by the Company, any Subagent or any other person or entity acting on behalf of the Company to which the Company is not entitled or which are in excess of the Maximum Sales Tax Exemption or which are for property or services not authorized or taken in cases where the Company, any Subagent or any other person or entity acting on behalf of the Company failed to comply with a material term or condition to use property or services in the manner required by this Project Agreement. The Company shall, and shall cause each Subagent and any other person or entity acting on behalf of the Company, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such Sales Tax Savings and shall promptly pay over any such amounts to the Agency or any other entity that it requests receive the Sales Tax Savings. The failure to pay over such amounts to such recipient shall be grounds for the Department to assess and determine State Sales and Use Taxes due from the Company under Article 28 of the Tax Law, together with any relevant penalties and interest due on such amounts.

Subject to the provisions of Section 4.6(b) above, in the event that the Company or any Subagent shall utilize the Sales Tax Exemption in violation of the provisions of this Project Agreement, the Company shall promptly deliver notice of same to the Agency, and the Company shall, upon demand by the Agency, pay to or at the direction of the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized Sales Tax Savings together with interest at the rate of twelve percent (12%) per annum compounded daily from the date and with respect to the dollar amount for which each such unauthorized Sales Tax Exemption was availed of by the Company or any Subagent (as applicable).

(c) Upon request by the Agency with reasonable notice to the Company, the Company shall make available at reasonable times to the Agency and/or the Independent Accountant all such books, records, contracts, agreements, invoices, bills or purchase orders of the Company and any Agent, and require all appropriate officers and employees of the Company to respond to reasonable inquiries by the Agency and/or the Independent Accountant, as shall be necessary (i) to indicate in reasonable detail those costs for which the Company or any Subagent shall have utilized the Sales Tax Exemption and the dates and amounts so utilized, and (ii) to permit the Agency to determine any amounts owed by the Company under this Section 4.6(c).

Section 4.7 Mortgage Recording Tax Exemption. Section 874 of the Act exempts the Agency from paying certain mortgage recording taxes except for the portion of the mortgage recording tax allocated to transportation districts referenced in Section 253(2)(a) of the New York State Tax Law ("Tax Law"). The Agency hereby grants to the Company exemption from mortgage recording taxes for one or more mortgages (collectively, the "Mortgage") securing an aggregate principal amount not to exceed Maximum Mortgage Principal Amount, or such greater amount as approved by the Agency in its sole and absolute discretion, in connection with the financing of the Project and any future financing, refinancing or permanent financing of the costs of the Project (the "Mortgage Recording Tax Exemption"). The Company represents

and warrants (1) that the real property secured by the Mortgage is located within a transportation district referenced in Section 253(2)(a) of the Tax Law, and (2) that upon recording the Mortgage, the Company shall pay the mortgage recording tax allocated to transportation districts referenced in Section 253(a)(2) of the Tax Law.

Section 4.8                      Recapture of Agency Benefits.

(a) It is understood and agreed by the parties hereto that the Agency is entering into this Project Agreement in order to provide the Financial Assistance to the Company for the Facility and to accomplish the public purposes of the Act. In consideration therefor, the Company hereby agrees that if there shall occur a Recapture Event (as defined below) after the date hereof, the Company shall pay to the Agency, or to the State of New York, if so directed by the Agency (except as otherwise specified below) as a return of public benefits conferred by the Agency, one hundred percent (100%) of the Recaptured Benefits.

(b) The term "Recaptured Benefits" shall mean all direct monetary benefits, tax exemptions and abatements and other financial assistance, if any, derived solely from the Agency's participation in the transaction contemplated by this Project Agreement, including, but not limited to, the amount equal to 100% of:

- (i) the Mortgage Recording Tax Exemption; and
- (ii) Sales Tax Exemption savings realized by or for the benefit of the Company, including any savings realized by any Subagent; and
- (iii) real property tax abatements granted pursuant to the Tax Agreement;

which Recaptured Benefits from time to time shall upon the occurrence of a Recapture Event in accordance with the provisions of Section 4.8(c) below and the declaration of a Recapture Event by notice from the Agency to the Company be payable directly to the Agency or the State of New York if so directed by the Agency within ten (10) days after such notice.

(c) The term "Recapture Event" shall mean any of the following events:

- (i) The occurrence and continuation of an Event of Default under this Project Agreement which remains uncured beyond any applicable notice and/or grace period, if any, provided hereunder; or
- (ii) The Project shall cease to be a "Project" within the meaning of the Act as in effect on the date hereof, through the act of omission of the Company; or
- (iii) The Company receives Sales Tax Savings in connection with property or services not authorized by the Agency as part of the Project; *provided, however,* that the foregoing shall constitute a Recapture Event with respect to such unauthorized Sales Tax Savings only; or

(iv) The Company receives Sales Tax Savings in connection with the Project in excess of the Maximum Sales Tax Exemption; *provided, however*, that the foregoing shall constitute a Recapture Event with respect to such excess Sales Tax Savings only. It is further provided that failure to repay the Sales Tax Savings within thirty (30) days shall constitute a Recapture Event with respect to all Recapture Benefits; or

(v) The Company has made a materially false or misleading statement, or omitted any material information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for Financial Assistance; or

(vi) Failure of the Company to file a copy of the Form ST-340 with the Agency in compliance with Section 4.5 hereof; or

(vii) The Company receives Mortgage Recording Tax Exemption savings with respect to the portion of the principal amount of a Mortgage in excess of the Maximum Mortgage Principal Amount; *provided, however*, that the foregoing shall constitute a Recapture Event with respect to such excess Mortgage Recording Tax Exemption savings only.

In order to assist the Agency with tracking information regarding the Project, the Company shall provide annually, to the Agency, a certified statement and documentation in the form attached hereto as **Exhibit E**: (i) enumerating the FTE jobs retained, if any, and the FTE jobs created in Genesee County as a result of the Financial Assistance, by category, including FTE independent contractors, subcontractors or employees of independent contractors or subcontractors that work at the project location, (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the Application is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created, and (iii) such other information, as reasonably requested by the Agency from time to time, to enable the Agency to assess the progress of the Project toward achieving the investment, job retention, job creation, or other objectives of the Project indicated in the Application. Notwithstanding the foregoing and anything herein to the contrary, the Agency understands that the Company has made no commitment to create temporary or permanent employment in connection with the Project and the lack of creation or maintenance by the Company of temporary or permanent employment in connection with the Project shall not constitute a Recapture Event or Event of Default under this Project Agreement or any other related transaction document.

(d) In the event any payment owing by the Company under this Section shall not be paid on demand by the Agency, such payment shall bear interest from the date of such demand at a rate equal to one percent (1%) plus the Prime Rate, but in no event at a rate higher than the maximum lawful prevailing rate, until the Company shall have made such payment in full, together with such accrued interest to the date of payment, to the Agency (except as otherwise specified above).

(e) The Agency shall be entitled to deduct all reasonable out of pocket expenses of the Agency, including, without limitation, reasonable legal fees, incurred with the recovery of all amounts due under this Section 4.8, from amounts received by the Agency pursuant to this Section 4.8.

## ARTICLE V. INSURANCE

Section 5.1 Insurance Required. Effective as of the date hereof and until the expiration or termination of the right of the Company to act as agent of the Agency hereunder, the Company shall maintain, or cause to be maintained by its subagent or subcontractors, certain insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type, and paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) Insurance with respect to the Improvements against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount as is required by the Lender, if any, or as is in accordance with general industry practice applicable the Facility, exclusive of excavations and foundations, as determined by a recognized insurer selected by the Company; or as an alternative to the foregoing, the Company may insure the Facility under a blanket insurance policy or policies covering not only the Facility but other properties as well.

(b) Workers' 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 Facility.

(c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 7.1 hereof) and arising from personal injury and death or damage to the property of others caused by any accident or occurrence at the Facility, with limits of not less than **\$1,000,000** per accident or occurrence on account of personal injury, including death resulting therefrom, and not less than **\$1,000,000** per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket umbrella or excess liability policy with coverage limits of not less than **\$3,000,000**, protecting the Company against any loss or liability or damage for personal injury or property damage. Such liability limits may be satisfied by any combination of primary and excess liability policies.

Section 5.2 Additional Provisions Respecting Insurance. (a) **All insurance required by Sections 5.1(a) and (c) hereof shall name the Agency as an additional insured.** All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide (i) for payment of the losses of the Company and the Agency as

their respective interest may appear, and (ii) that the insurance company shall endeavor to give thirty (30) days' prior written notice or such other notice as the policy provides for, of the cancellation thereof to the Company and the Agency.

(b) All such certificates of insurance of the insurers indicating that such insurance is in force and effect, and all policies (if applicable), shall be deposited with the Agency on the date hereof. Prior to the expiration of any such policy evidenced by said certificates, the Company shall furnish the Agency with evidence that the policy has been renewed or replaced or is no longer required by this Project Agreement.

## ARTICLE VI. EVENTS OF DEFAULT AND REMEDIES

Section 6.1           The following shall each be "Events of Default" under this Project Agreement:

(a) the failure by the Company to observe and perform any covenant contained in Sections 2.1(e), 2.1(g), 2.1(i), 2.1(j), 2.1(k), 4.3, 4.5, 4.6, 4.7, 5.1, 5.2, 7.1 and 7.6 hereof and continuation of such failure for a period of thirty (30) days after the Agency gives written notice of such failure to the Company;

(b) the failure by the Company to pay the Recapture Benefits on the date due;

(c) the occurrence and continuation of a Recapture Event;

(d) the occurrence and continuation of an Event of Default (beyond applicable cure periods) under the Leaseback Agreement or Tax Agreement;

(e) the dissolution or liquidation of the Company; or the failure by the Company to release, stay, discharge, lift or bond within thirty (30) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Company generally to pay its debts as they become due; or an assignment by the Company for the benefit of creditors; or the commencement by the Company (as the debtor) of a case in bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in bankruptcy or any proceeding under any other insolvency law against the Company (as the debtor), wherein a court having jurisdiction in the premises enters a decree or order for relief against the Company as the debtor, or such case or proceeding is consented to by the Company or remains undismissed for forty (40) days, or the Company consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Company for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors.

### Section 6.2           Remedies on Default.

(a) Whenever any Event of Default shall have occurred and be continuing beyond applicable cure periods, the Agency may take, to the extent permitted by law, any one or more of the following remedial steps:

(i) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all due and owing Recaptured Benefits (without acceleration) and (B) all other payments due and owing under this Project Agreement (without acceleration); or

(ii) terminate this Project Agreement and the Sales Tax Exemption authorization; or

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

(b) No action taken pursuant to this Section 6.2 (including termination of the Project Agreement) shall relieve the Company from its obligation to make all payments due and owing (without acceleration) under the Leaseback Agreement, the Tax Agreement or this Project Agreement.

Section 6.3 Remedies Cumulative. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Project Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right and power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article VI it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Project Agreement.

Section 6.4 Agreement to Pay Attorneys' Fees and Expenses. In the event the Company should default under any of the provisions of this Project Agreement and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency the fees of such attorneys and such other expenses so incurred.

Section 6.5 Right to Cure. Prior to the exercise of any remedy by the Agency hereunder following an Event of Default or a Recapture Event, the Company and any Lender shall have an absolute right to cure such Event of Default or Recapture Event during the time period allowed for curing same. If the Company at any time during the term of this Project Agreement prior to the occurrence of an Event of Default or a Recapture Event provides a written request to the Agency that notices hereunder be provided to a Lender, any such Lender shall be afforded an additional sixty (60) days to cure an Event of Default or a Recapture Event on behalf of the Company (each cure period being beyond the time period allowed for the Company to cure).

## ARTICLE VII. MISCELLANEOUS

Section 7.1 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, members, officers, employees, agents (other than 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 Facility or arising by reason of or in connection with the occupation or the use thereof or the presence on or in the Facility or breach by the Company of this Project Agreement or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, constructing, equipping, owning and leasing of the Facility, including, without limiting the generality of the foregoing, all causes of action and reasonable attorneys' 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 executive director, directors, members, 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 intentional wrongdoing, willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

Section 7.2 This Project Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Project Agreement and of signature pages by facsimile or portable document format (PDF) transmission shall constitute effective execution and delivery of this Project Agreement as to the parties hereto and may be used in lieu of the original Project Agreement and signature pages for all purposes.

Section 7.3 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, or by a nationally-recognized overnight courier, addressed as follows:

To the Agency: Genesee County Industrial Development Agency  
d/b/a Genesee County Economic Development Center  
99 MedTech Drive, Suite 106  
Batavia, New York 14020  
Attn: President/CEO

With a copy to: Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Attn: Russell E. Gaenzle, Esq.

To the Company: Hecate Energy Cider Solar LLC  
621 W. Randolph Street  
Chicago, Illinois 60661  
Attn: Harrison Luna



With a copy to:           Barclay Damon LLP  
                                  125 East Jefferson Street  
                                  Syracuse, New York 13202  
                                  Attn: Matthew S. Moses, Esq.

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. The Agency or the Company may, by notice given hereunder, designate any different manner by which subsequent notices to the Agency or the Company, as the case may be, shall be sent. A copy of all notices to the Company hereunder shall also be served on any Lender (as defined in the Leaseback Agreement) identified pursuant to the Leaseback Agreement, and no such notice or other communication to the Company shall be deemed received unless a copy is so served upon any such Lender in the manner provided herein for the giving of notice.

Section 7.4           This Project 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 hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Genesee County, New York.

Section 7.5           The warranties, representations, obligations and covenants of the Company under this Project Agreement shall be absolute and unconditional and shall remain in full force and effect during the term of this Project Agreement, shall be deemed to have been relied upon by the Agency, and shall survive the delivery and termination of this Project Agreement to the Agency, regardless of any investigation made by the Agency. This Project Agreement shall survive any termination or expiration of the Leaseback Agreement or the Tax Agreement, as described below.

Section 7.6           The parties are contemplating that unless the Agency and Company enter into the Lease Agreement (the "Lease Agreement"), and the related Leaseback Agreement (the "Leaseback Agreement"), the Company agrees not to take title to any real property as agent for the Agency.

Section 7.7           By executing this Project Agreement, the Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency for (a) legal services, including, but not limited to, those provided by the Agency's general counsel and bond/transaction counsel, (b) other consultants retained by the Agency, if any, in connection with the Project; and (c) with respect to Agency's enforcement of any event of default or failure to comply with the terms of this Project Agreement (including reasonable attorney fees). The Company further covenants and agrees that the Company is liable for payment to the Agency of all charges referred to above, as well as all other actual costs and expenses incurred by the Agency in undertaking the Project notwithstanding the occurrence of any of (i) the Company's withdrawal, abandonment, cancellation or failure to pursue the Project; (ii) the inability of the Agency or the Company to procure the services of one or more financial institutions to provide financing for the Project; or (iii) the Company's failure, for whatever reason, to undertake and/or successfully complete the Project.

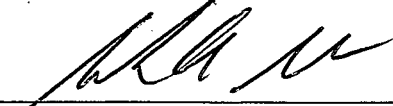
Section 7.8 Assignment. This Project Agreement may not be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder, without the prior written consent of the Agency, which shall not be unreasonably conditioned, withheld or delayed; provided, however, that in the event the Leaseback Agreement is assigned by the Company in accordance with the provisions of the Leaseback Agreement, this Project Agreement shall be subject to consent requirements of the Leaseback Agreement and must be assigned by the Company in connection therewith.

*[Remainder of Page Intentionally Left Blank]*

[Signature Page to Project Agreement]

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

**GENESEE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY d/b/a  
GENESEE COUNTY ECONOMIC  
DEVELOPMENT CENTER**

By:   
Name: Mark A. Masse  
Title: President/CEO

**HECATE ENERGY CIDER SOLAR LLC**

By: \_\_\_\_\_  
Name: Charles Wheeler  
Title: Authorized Representative


[Signature Page to Project Agreement]

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

**GENESEE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY d/b/a  
GENESEE COUNTY ECONOMIC  
DEVELOPMENT CENTER**

By: \_\_\_\_\_  
Name: Mark A. Masse  
Title: President/CEO

**HECATE ENERGY CIDER SOLAR LLC**

By:  \_\_\_\_\_  
Name: Christopher Smith  
Title: Authorized Representative

## SCHEDULE A

### SCHEDULE OF DEFINITIONS

"Authorized Representative" means, in the case of the Agency, the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations and such additional persons as, at the time, are designated to act on behalf of the Agency; and in the case of the Company, the members and such additional persons as, at the time, are designated to act on behalf of the Company.

"Independent Accountant" shall mean an independent certified public accountant or firm of independent certified public accountants selected by the Company and approved by the Agency (such approval not to be unreasonably withheld or delayed).

"Lease Agreement" shall mean that certain Lease Agreement, dated as of September 13, 2024 by and between the Company and the Agency.

"Leaseback Agreement" shall mean that certain Lease Agreement, dated as of September 13, 2024, by and between the Company and the Agency.

"Maximum Mortgage Principal Amount" shall mean **\$550,000,000.00**.

"Maximum Sales Tax Exemption" shall mean the aggregate maximum dollar amount of Sales Tax Savings that the Company and all Subagents acting on behalf the Company are permitted to receive under this Project Agreement, which shall equal **\$44,000,000.00**, or such maximum dollar amount as may be determined by the Agency pursuant to such additional documents as may be required by the Agency for such increase.

"Prime Rate" means (i) if no lender, the rate designated by The Wall Street Journal from time to time as its "prime rate", or (ii) if a lender exists, the rate designated by the lender from time to time as its "prime rate".

"Sales Tax Exemption" shall mean an exemption from Sales and Use Taxes resulting from the Agency's participation in the acquisition, construction, installation and equipping of the Facility.

"Sales and Use Taxes" shall mean local and State sales and compensating use taxes and fees imposed pursuant to Article 28 of the New York State Tax Law, as the same may be amended from time to time.

"Sales Tax Savings" shall mean all Sales Tax Exemption savings relating to Sales and Use Taxes realized by or for the benefit of the Company, including any savings realized by any Subagent, pursuant to this Project Agreement.

"State Sales and Use Taxes" shall mean sales and compensating use taxes and fees imposed by Article 28 of the New York State Tax Law but excluding such taxes imposed in a city by Section 1107 or 1108 of such Article 28, as the same may be amended from time to time.

**SCHEDULE B**

**LIST OF APPOINTED AGENTS<sup>1</sup>**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

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<sup>1</sup> FOR EACH SUBAGENT APPOINTED BY THE COMPANY, A NYS FORM ST-60 MUST BE COMPLETED AND FILED BY THE COMPANY WITH THE NYS DEPARTMENT OF TAXATION AND FINANCE IDA UNIT INDICATING THE APPOINTMENT OF SUCH SUBAGENT.

**SCHEDULE C**

MANDATORY AGENT AND SUBAGENT CONTRACT LANGUAGE

"This contract is being entered into by **HECATE ENERGY CIDER SOLAR LLC** [or, name of subagent: \_\_\_\_\_] (the "Agent"), as agent for and on behalf of the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency"), in connection with a certain project of the Agency for the benefit of **HECATE ENERGY CIDER SOLAR LLC**, consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation in certain premises located in the Town of Elba and the Town of Oakfield, Genesee County, New York, and any lands located in Genesee County and occupied by license or easement during construction or improved by third parties for the benefit of the Project (the "Premises"). The acquisition of the machinery, equipment and building materials to be incorporated and installed in the Premises and all services and rentals of equipment related to the acquisition, construction and equipping of the Project shall be exempt from all New York State and local sales and use taxes if the acquisition thereof is effected in accordance with the terms and conditions set forth in the attached sales tax exemption information letter of the Agency; and the Agent hereby represents that this contract is in compliance with the terms of the Project Agreement by and between **HECATE ENERGY CIDER SOLAR LLC** and the Agency, dated as of September 13, 2024. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor hereby acknowledges and agrees to the terms and conditions set forth in this paragraph."

**SCHEDULE D**

[See Attached]



<b>Town of Elba</b>	
<b>Property Address of Underlying Land <sup>1</sup></b>	<b>Tax Parcel Number of Underlying Land <sup>1</sup></b>
Graham Road	16.-1-7.211
Graham Road	16.-1-7.212
Graham Road	16.-1-7.213
Lockport Road	16.-1-9
Quaker Hill Road	16.-1-15.1
Lockport Road	16.-1-19.113
Lockport Road	16.-1-22
Lockport Road	16.-1-26.11
Graham Road	16.-1-26.12
Lockport Road	16.-1-29.11
Lockport Road	16.-1-30.11
Snyder Road	16.-1-31.11
Graham Road	16.-1-35.1
Oak Orchard Road	17.-1-13.11
Barrville Road	17.-1-35
Oak Orchard Road	17.-1-77.21 (includes former 17.-1-77.2)
Oak Orchard Road	17.-1-80.211
North Byron Road	17.-1-96.1
Maltby Road	19.-1-9
Weatherwax Road	19.-1-63.12
Lockport Road	16.-1-1.111
Lockport Road	16.-1-2.1
Oak Orchard Road	17.-1-88
Weatherwax Road	19.-1-64.111
Oak Orchard Road	17.-1-2
Oak Orchard Road	17.-1-49.1
Lockport Road	16.-1-18.11
Oak Orchard Road	17.-1-69
Ridge Road	13.-1-73
Oak Orchard Road	17.-1-46.11
Graham Road	16.-1-8.112
Oak Orchard Road	14.-1-41
Lockport Road	16.-1-26.2
Quaker Hill Road	14.-1-42.1
Quaker Hill Road	17.-1-1.2
Quaker Hill Road	13.-1-99.11
Lockport Road	16.-1-6

<b>Town of Oakfield</b>	
<b>Property Address of Underlying Land <sup>1</sup></b>	<b>Tax Parcel Number of Underlying Land <sup>1</sup></b>
Lockport Road	12.-1-6.11
Lockport Road	12.-1-7
Fisher Road	12.-1-11.2 (includes former 12.-1-10.2)
Lockport Road	13.-1-8
Lockport Road	11.-1-32
Lockport Road	11.-1-34.21
Albion Road	11.-1-35.112
Lockport Road	12.-1-1.2
Fisher Road	12.-1-4.12
Lockport Road	12.-1-8
Lockport Road	12.-1-10.1
Fisher Road	12.-1-11.1
Fisher Road	12.-1-29.1
Lockport Road	12.-1-34.1
Fisher Road	12.-1-56
Lockport Road	12.-1-61.12
Lockport Road	12.-1-63
Fisher Road	13.-1-40
Lockport Road	12.-1-30
Lockport Road	11.-1-33.11
Lockport Road	12.-1-32.111
Lockport Road	12.-1-62.111
Fisher Road	12.-1-5.2 (includes former 12.-1-42)
Lockport Road	12.-1-31.2

<sup>1</sup> The tax parcel numbers and property addresses referenced in the schedule above refer to the interests of the underlying landowners. The final design and layout of the Facility has not been completed. Accordingly, the parcels of land, and therefore the tax parcel numbers and property addresses in the schedule, on which the Facility will be constructed, installed and equipped are subject to change and may be eliminated or supplemented from time to time prior to the Commercial Operation Date pursuant to the terms of the Agency Lease. The underlying parcels of land identified by the above tax parcel numbers are not part of the Facility, except to the extent the Company holds or acquires a fee simple interest therein. It is anticipated that new tax parcel identification numbers will be created to separately identify improvements associated with the Facility following its construction, installation and equipping.

**EXHIBIT A**

**RESERVED**

**EXHIBIT B**

**FORM OF NYS FORM ST-60 FOR USE BY SUBAGENTS OF COMPANY**

**[See Attached]**



Department of Taxation and Finance

# IDA Appointment of Project Operator or Agent For Sales Tax Purposes

# ST-60

(1/18)

The industrial development agency or authority (IDA) **must** submit this form within **30 days** of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

**For IDA use only**

### IDA information

Name of IDA Genesee County IDA			IDA project number (use OSC numbering system for projects after 1998) 1801-22-11A
Street address 99 MedTech Drive, Suite 106			Telephone number ( 585 ) 343-4866
City Batavia	State NY	ZIP code 14020	Email address (optional) N/A

### Project operator or agent information

Name of IDA project operator or agent		Mark an X in the box if directly appointed by the IDA: <input type="checkbox"/>	Employer identification or Social Security number
Street address		Telephone number (     )	Primary operator or agent? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
City	State	ZIP code	Email address (optional) N/A

### Project information

Name of project Hecate Energy Cider Solar LLC Project			
Street address of project site See Schedule A**			
City (T) of Elba & (T) of Oakfield	State NY	ZIP code 14058/14125	Email address (optional) N/A
Purpose of project (i) the acquisition by the Agency of an interest in the Company's fee, leasehold, and easement interests in certain parcels of land located in the Town of Elba and the Town of Oakfield, Genesee County, New York (the "Land", being more particularly described in Schedule D attached hereto); (ii) the planning, design, construction and operation of a 500MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility")			

Description of goods and services intended to be exempted from New York State and local sales and use taxes Goods and services, inclusive of fuel and utilities, whether the goods and services are purchased or rented, and notwithstanding that they continue to constitute personal property or the item is used after the completion of the Project, or the item or services is geographically located or performed outside the legal boundaries of the Project Facility; provided there is a reasonable basis to acquire the item or engage the service to benefit the Project.			
Date project operator or agent appointed (mmdyyy)	Date project operator or agent status ends (mmdyyy)	12/31/27	Mark an X in the box if this is an extension to an original project: <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax:	\$550,000,000 all agents; all in	Estimated value of New York State and local sales and use tax exemption provided:	\$44,000,000 all agents; all in

**Certification:** I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA Mark A. Masse	Print title President / CEO
Signature 	Date 09/13/2024
	Telephone number (585) 343-4866



## Instructions

### When to file

An IDA must file this form within 30 days of the date they appoint any project operator or other person as agent of the IDA, for purposes of extending any sales and use tax exemptions.

### Requirements to file

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA should not file this form if they do not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, they must, within 30 days of the change, file a new form with the new information.

### If the information on this form changes

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA, within 30 days, must send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. They must attach to the letter a copy of the form it originally filed. The IDA should not send a letter for a form that is not valid merely because the *Completion date of project* has passed.

### Mailing instructions

Mail completed form to:

NYS TAX DEPARTMENT  
IDA UNIT  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0866

**Private delivery services** – See Publication 55, *Designated Private Delivery Services*.

### Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

### Need help?



Visit our website at [www.tax.ny.gov](http://www.tax.ny.gov)

- get information and manage your taxes online
- check for new online services and features

### Telephone assistance

Sales Tax Information Center:	518-485-2889
To order forms and publications:	518-457-5431
Text Telephone (TTY) or TDD equipment users	Dial 7-1-1 for the New York Relay Service

**EXHIBIT C-1**

**NYS FORM ST-123 FOR USE BY COMPANY**

**[See Attached]**



IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1.1)S, Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities, for more information.

Table with seller and agent information including Name of seller, Street address, City, town, or village, State, ZIP code, Name of agent or project operator, and Agent or project operator sales tax ID number.

Mark an X in one: [ ] Single-purchase certificate [X] Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Table with project information including Name of IDA, Name of project, IDA project number, Street address of project site, City, town, or village, State, ZIP code, and dates of appointment and status ends.

Exempt purchases

(Mark an X in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence.

Signature of purchaser or purchaser's representative (include title and relationship) and Date fields.



## Instructions

### To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

**Agent or project operator sales tax ID number** — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

*Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.*

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

*Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.*

*Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.*

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

### Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

### Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

### To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

### Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

### Need help?



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- get information and manage your taxes online
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**EXHIBIT C-1**

**NYS FORM ST-123 FOR USE BY SUBAGENTS OF COMPANY**

**[See Attached Page]**



IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1.1)S, Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities, for more information.

Table with seller and agent information including name, address, and sales tax ID number.

Mark an X in one: [ ] Single-purchase certificate [X] Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Table with project details: Name of IDA (Genesee County IDA), Name of project (Hecate Energy Cider Solar LLC Project), IDA project number (1801-22-11A), Street address (See Schedule A\*\*), City (T of Elba & T of Oakfield), State (NY), ZIP code (14058/14125), and dates.

Exempt purchases

(Mark an X in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence.

Signature of purchaser or purchaser's representative (include title and relationship) and Date fields.

## Instructions

### To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

**Agent or project operator sales tax ID number** — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

*Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.*

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

*Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.*

*Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.*

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

### Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

### Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

### To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

### Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

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**EXHIBIT C-2**

**NYS FORM FT-123 (FUEL) FOR USE BY COMPANY**

**[See Attached Page]**



IDA Agent or Project Operator Exempt Purchase Certificate for Fuel

This certificate is not valid unless all entries have been completed.

To be completed by the purchaser and given to the seller.

Table with seller and agent information: Name of seller, Street address, City, town, or village, State, ZIP code, Name of agent or project operator, Street address, City, town, or village, State, ZIP code, Agent or project operator sales tax ID number.

Mark an X in one: [ ] Single-purchase certificate [X] Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the fuel for use in the following IDA project and that such purchases qualify as exempt from excise taxes and sales and use taxes under my agreement with the IDA.

Table with project details: Name of IDA, Name of project, IDA project number, Street address of project site, City, town, or village, State, ZIP code, Date of appointment, Date status ends.

Exempt purchases – Only fuel or residual petroleum product used to complete the project may be purchased by IDA agents or project operators exempt from the fuel excise tax, petroleum business tax, and sales and use tax.

Mark an X in boxes that apply:

- A. Motor fuel, B. Highway diesel motor fuel, C. Non-highway diesel motor fuel, D. Residual petroleum product

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that excise taxes and state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document...

Signature of purchaser or purchaser's representative (include title and relationship) and Date.



## Instructions

### To the purchaser

You may use Form FT-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from excise taxes and sales and use tax as described in the IDA contract.

You may use Form FT-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

**Agent or project operator sales tax ID number** – If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

*Industrial development agencies and authorities (IDAs)* are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases. However, IDAs do not normally make direct purchases for projects. Commonly, an IDA instead appoints a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax. Purchases made by an agent or project operator to operate a business after the project is completed are subject to tax.

**Example:** *An IDA agreement with its agent, Contractor X, states that Contractor X may make all purchases of materials and equipment necessary for completion of the project as agent for the IDA.*

*Contractor X purchases non-highway diesel motor fuel for use in construction equipment that will be used to prepare the site for construction. Since the fuel is being used to complete the project, Contractor X may purchase the fuel exempt from taxes.*

*When the project is completed, Contractor X purchases motor fuel and highway diesel motor fuel for use in snowplows and other maintenance vehicles used to maintain the parking lots for the business. Contractor X may not purchase this fuel exempt from tax because it is being used to operate, not to complete, the project.*

### Exempt purchases

To qualify for exemption, the purchases must be made within the authority granted by the IDA and used to **complete** the project, but not to **operate** the completed project.

**Box A** – *Motor fuel* is gasoline, benzol, reformulated blend stock for oxygenate blending, conventional blend stock for oxygenate blending, E85, fuel grade ethanol that meets the ASTM International active standards specification D4806 or D4814, or other product which is suitable for use in the operation of a motor vehicle engine. If you are purchasing motor fuel exempt from tax, mark this box.

**Box B** – *Highway diesel motor fuel* is any diesel motor fuel that is **not** non-highway diesel motor fuel. If you are purchasing highway diesel motor fuel exempt from tax, mark this box.

**Box C** – *Non-highway diesel motor fuel* is any diesel motor fuel designated for use other than on a public highway, and is dyed diesel motor fuel. If you are purchasing non-highway diesel motor fuel exempt from tax, mark this box.

*Diesel motor fuel* is No. 1 diesel fuel, No. 2 diesel fuel, biodiesel, kerosene, fuel oil, or other middle distillate, and also motor fuel suitable for operating a diesel engine. Diesel motor fuel does not include any product specifically designated "No. 4 diesel fuel."

**Box D** – *Residual petroleum product* means the topped crude of refinery operations, including No. 5 fuel oil, No. 6 fuel oil, bunker C, and the special grade of diesel product designated as No. 4 diesel fuel, that is not suitable for use in the operation of a motor vehicle engine. If you are purchasing residual petroleum product exempt from tax, mark this box.

### Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

### To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

### Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

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**EXHIBIT C-2**

**NYS FORM FT-123 (FUEL) FOR USE BY SUBAGENTS OF COMPANY**

**[See Attached Page]**





IDA Agent or Project Operator Exempt Purchase Certificate for Fuel

This certificate is not valid unless all entries have been completed.

To be completed by the purchaser and given to the seller.

Form with fields: Name of seller, Street address, City, town, or village, State, ZIP code, Name of agent or project operator, Agent or project operator sales tax ID number

Mark an X in one: [ ] Single-purchase certificate [X] Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the fuel for use in the following IDA project and that such purchases qualify as exempt from excise taxes and sales and use taxes under my agreement with the IDA.

Form with fields: Name of IDA, Name of project, IDA project number, Street address of project site, City, town, or village, State, ZIP code, Enter the date that you were appointed agent or project operator, Enter the date that agent or project operator status ends

Exempt purchases – Only fuel or residual petroleum product used to complete the project may be purchased by IDA agents or project operators exempt from the fuel excise tax, petroleum business tax, and sales and use tax.

Mark an X in boxes that apply:

- A. Motor fuel, B. Highway diesel motor fuel, C. Non-highway diesel motor fuel, D. Residual petroleum product

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that excise taxes and state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document...

Form with fields: Signature of purchaser or purchaser's representative, Date, Type or print the name, title, and relationship that appear in the signature box

## Instructions

### To the purchaser

You may use Form FT-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from excise taxes and sales and use tax as described in the IDA contract.

You may use Form FT-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

**Agent or project operator sales tax ID number** – If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

*Industrial development agencies and authorities (IDAs)* are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases. However, IDAs do not normally make direct purchases for projects. Commonly, an IDA instead appoints a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax. Purchases made by an agent or project operator to operate a business after the project is completed are subject to tax.

**Example:** *An IDA agreement with its agent, Contractor X, states that Contractor X may make all purchases of materials and equipment necessary for completion of the project as agent for the IDA.*

*Contractor X purchases non-highway diesel motor fuel for use in construction equipment that will be used to prepare the site for construction. Since the fuel is being used to complete the project, Contractor X may purchase the fuel exempt from taxes.*

*When the project is completed, Contractor X purchases motor fuel and highway diesel motor fuel for use in snowplows and other maintenance vehicles used to maintain the parking lots for the business. Contractor X may not purchase this fuel exempt from tax because it is being used to operate, not to complete, the project.*

### Exempt purchases

To qualify for exemption, the purchases must be made within the authority granted by the IDA and used to **complete** the project, but not to **operate** the completed project.

**Box A** – *Motor fuel* is gasoline, benzol, reformulated blend stock for oxygenate blending, conventional blend stock for oxygenate blending, E85, fuel grade ethanol that meets the ASTM International active standards specification D4806 or D4814, or other product which is suitable for use in the operation of a motor vehicle engine. If you are purchasing motor fuel exempt from tax, mark this box.

**Box B** – *Highway diesel motor fuel* is any diesel motor fuel that is **not** non-highway diesel motor fuel. If you are purchasing highway diesel motor fuel exempt from tax, mark this box.

**Box C** – *Non-highway diesel motor fuel* is any diesel motor fuel designated for use other than on a public highway, and is dyed diesel motor fuel. If you are purchasing non-highway diesel motor fuel exempt from tax, mark this box.

*Diesel motor fuel* is No. 1 diesel fuel, No. 2 diesel fuel, biodiesel, kerosene, fuel oil, or other middle distillate, and also motor fuel suitable for operating a diesel engine. Diesel motor fuel does not include any product specifically designated "No. 4 diesel fuel."

**Box D** – *Residual petroleum product* means the topped crude of refinery operations, including No. 5 fuel oil, No. 6 fuel oil, bunker C, and the special grade of diesel product designated as No. 4 diesel fuel, that is not suitable for use in the operation of a motor vehicle engine. If you are purchasing residual petroleum product exempt from tax, mark this box.

### Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

### To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

### Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

### Need help?



Visit our Web site at [www.tax.ny.gov](http://www.tax.ny.gov)

- get information and manage your taxes online
- check for new online services and features



**Sales Tax** Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431



**Text Telephone (TTY) Hotline**  
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

**EXHIBIT D**

**NYS FORM ST-340**

**[See Attached Page]**



Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority (IDA)

For period ending December 31, \_\_\_\_\_ (enter year)

Project information

Form with fields: Name of IDA agent/project operator, Employer identification number (EIN), Street address, Telephone number, City, State, ZIP code, Name of IDA, Name of project, IDA project number, Street address of project site, City, State, ZIP code, Date project began, Completion date of project, Total sales and use tax exemptions.

Representative information (not required)

Form with fields: Authorized representative, if any, Title, Street address, Telephone number, City, State, ZIP code.

Certification

Certification text: I certify that the above statements are true, complete, and correct... Print name of officer, employee, or authorized representative, Title of person signing, Signature, Date.

If you do not annually file a complete report, we may remove your authority to act as an IDA agent/project operator.

Mail completed report to: NYS TAX DEPARTMENT, IDA UNIT, W A HARRIMAN CAMPUS, ALBANY NY 12227-0866

If not using U.S. Mail, see Publication 55, Designated Private Delivery Services.

# Instructions

## General information

### Who must file

The General Municipal Law (GML) and the Public Authorities Law require the agent/project operator (also known as the *project occupant*) of an Industrial Development Agency or Authority (IDA) to file an annual report with the Tax Department. The agent/project operator required to file this report is the person **directly** appointed by the IDA to act for and to represent the IDA for the project. The agent/project operator is ordinarily the one for whom the IDA project was created.

There is usually only one agent/project operator directly appointed by the IDA for an IDA project. However, if the IDA directly appoints multiple agents/project operators, each agent/project operator must file this form (unless they are related corporations).

Only the agent/project operators directly appointed by the IDA must file Form ST-340. Contractors, subcontractors, consultants, or agents appointed by the agent/project operators should **not** themselves file Form ST-340. However, the agent/project operators must include on Form ST-340 information obtained from such contractors, subcontractors, consultants, and agents, as described below.

### What you must report

The report must show the **total value** of all state and local **sales and use taxes exempted** during the calendar year, as a result of the project's designation as an IDA project. This includes:

- the value of the exemptions the agent/project operator (you) obtained; and
- the value of the exemptions obtained by your contractors, subcontractors, consultants, and others, whether or not appointed as agents of the IDA.

Include only the **total combined** exemptions obtained by the above people. A breakdown of the total is not required. However, since the report must include the value of the exemptions they obtained, you must keep records of the amounts others report to you.

You must make it clear to the contractors, subcontractors, consultants, and others that they must keep accurate tax information and have it available, so that you can comply with the annual reporting requirements.

Do not include on this report the amount of any sales and use tax exemptions from other provisions of the Tax Law (for example, manufacturer's production equipment exemption, research and development exemption, or contractor's exemption for tangible personal property incorporated into a project of an exempt organization).

### When the report is due

You must file Form ST-340 on a calendar-year basis. It is due by the last day of February of the following year. The reporting requirement applies to IDA projects started on or after July 21, 1993.

### Project information

At the top of the form, identify the reporting period by entering the year in the space provided. If an address is required, always include the ZIP code.

**Name of IDA agent/project operator:** Enter your name, address, employer identification number (EIN), and telephone number.

**Name of IDA and IDA project number:** Enter the name and address of the IDA. If more than one IDA is involved in a particular project, you must file a separate report for the tax exemptions attributable to each IDA. Also enter the ID project number.

**Name of project:** Enter the name of the project and the address of the project site. If you are involved in more than one project, you

must file a separate report for each project, even if authorized by the same IDA.

**Date project began:** Enter the date the project started (this means the earliest of the date of any bond or inducement resolution, the execution of any lease, or any bond issuance). Include month, day, and year.

**Completion date of project:** Enter the date installation, lease, or rental of property (for example, machinery or computers) on the project ended, or the date the project is expected to be completed. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected.

**Total sales and use tax exemptions:** Enter the total amount of New York State and local sales and use taxes exempted during the reporting period as a result of the project's receipt of IDA financial assistance (*if none, enter 0*). This includes exemptions obtained at the time of purchase, as well as through a refund or credit of tax paid. Include the sales and use taxes exempted on purchases of property or services incorporated into or used on the exempt project. This includes the taxes exempted on purchases made by or on behalf of the agent/project operator, the general contractor for the project, and any subcontractors, consultants, or others. Do **not** enter total purchases.

## Representative information

If applicable, enter the name, address, title (for example, attorney or accountant), and telephone number of the individual you authorize to submit this report. This section is not required.

## Certification

Enter the name and title of the person signing on your behalf (for example, the IDA agent/project operator's officer, employee, or other authorized representative). Your officer, employee, or authorized representative must sign and date the report.

Mail completed report to:

**NYS TAX DEPARTMENT  
IDA UNIT  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0866**

If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

## Need help?



Visit our website at [www.tax.ny.gov](http://www.tax.ny.gov)

- get information and manage your taxes online
- check for new online services and features

### Telephone assistance

Sales Tax Information Center:	518-485-2889
To order forms and publications:	518-457-5431
Text Telephone (TTY) or TDD equipment users	Dial 7-1-1 for the New York Relay Service

### Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

**EXHIBIT E**

**ANNUAL PROJECT REPORT**

**DUE BY:**

**Genesee County Economic Development Center**



<b>A. Business Information:</b> <i>Please fill in blanks or change as necessary</i>		<b># 1</b>	
Organization Name:	Organization Name Change: (if applicable)*		
Project Address:	Address Change (if applicable)*		
Contact Person:	Contact Person Change: (if applicable)		
Name:	Name:		
Phone:	Phone:		
Fax:	Fax:		
E-mail:	E-mail		
Mailing Address (if different from Organization Address):	Mailing Address Change: (if applicable)		
Not For Profit (Yes or No)			
<b>B. Project Information:</b>			
Project Name:	Project ID:		
Project Description:			
<b>C. Tax Exemptions:</b> <i>Please fill in blanks</i>			
If you claimed exemption from New York State Sales Tax or Mortgage Tax during 201_ , please answer the following questions. If not applicable to your project, please indicate by responding with an "N/A" in the blank provided.			
Total Sales Tax exemption from 1/1/1_ – 12/31/1_ (Actual tax savings, NOT total purchases):	Attach copy of NYS Form ST-340 on which you reported the value of sales and use tax exemptions for your project. <i>New York State requires that a company receiving sales tax exemptions file an ST-340 no later than the end of February following the year in which the exemption was claimed.</i>		
Value of 201_ Mortgage Recording Tax Exemption (1.25% of the mortgage amount):			
<b>D. Employment Data:</b>			
<i>201_ employment (only for the location that is receiving IDA benefits) PLEASE REFER TO the definition of Full-Time Equivalent Jobs.</i>			
<b>Job Classification</b>	<b>Number of Full-Time Equivalent Employees</b> (as of 12/31/1_)	<b>Average annual salary of Full-Time Equivalent employees</b> (Reported in prior column)	<b>Average annual salary and benefits of Full-Time Equivalent employees</b>
Executive Management (Owner / CEO / Management)			
Production / Manufacturing			
Clerical / Administrative			
Other			
<b>Definition of Full Time Equivalent Jobs:</b> Full-time jobs, plus any combination of two or more part-time jobs that, when combined together, constitute the equivalent hours of a full-time position.			
<b>Please attach copies of your NYS-45 Quarterly Combined Withholding, Wage Reporting &amp; Unemployment Insurance</b>			



Return for each quarter in 201\_. (Please note that benefits will be terminated if these reports are not submitted.)  
**Report the total number of full-time and part-time covered employees for the third month of the fourth quarter as shown on the NYS-45: \_\_\_\_\_.**

If you are a new Company and a NYS-45 is not available, please check here

Number of Full-Time Equivalent Construction Jobs created during 201\_ : \_\_\_\_\_

*If the NYS-45 includes multiple locations, please attach a separate sheet that certifies the job information specific to the project location.*

**E. Bonds:** Please complete this section if you have a bond with the GCEDC.

New Bond Issue Amount: \$ <input type="checkbox"/> Taxable <input type="checkbox"/> Tax Exempt	
Bond Closing Date:	Cost of Bond Issuance:
Bond Interest Type (Fixed or Variable):	Debt Retired During 201_ : \$
Bond Interest Rate:	Outstanding Amount of Bond at Dec. 31, 201_ : \$

**F. Capital Investments:**

**Please list investments directly related to the project described in Section B made during the period of January 1 – December 31, 201\_.** Do not include investments from previous reporting periods or operating expenses.

	As Reported on original Application	Reported on Previous Report (Cumulative)	Actual Expense in 201_ (Related to the project defined in section B)		As Reported on original Application	Reported on Previous Report (Cumulative)	Actual Expense in 201_ (Related to the project defined in section B)
<b>Building Cost:</b> <small>(New build or expansion)</small>				<b>Other:</b> <small>(Renovations of existing space)</small>			
<b>Land &amp; Building:</b> <small>(Purch. price incl. engineering et.)</small>				<b>Total Investment:</b>			
<b>Production Equip.:</b> <small>(Not Sales Taxable)</small>				<b>Total Amount Financed:</b>			
<b>Other Equipment:</b> <small>(Sales taxable equip.)</small>				<b>Mortgage Amt.:</b>			

**Please reference the original project application and explain any variances from the original project estimates:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Do you anticipate relocating, expanding your business or purchasing equipment within the next 12 months?**  
 YES \_\_\_\_\_ NO \_\_\_\_\_

**If yes, please explain** \_\_\_\_\_  
 \_\_\_\_\_

**G. Signature:** Report will not be considered complete unless signature is provided

**An Authorized Company Official must certify the information provided by completing the following:**  
*Termination of benefits is possible if the information submitted is determined to be incorrect or if the information is not submitted by the requested date. The GCEDC reserves the right to complete an examination of back-up documentation related to the company's reported project information at any time should the GCEDC have reasonable cause to do so.*  
**I hereby attest that the information contained in this report is true and correct to the best of my knowledge.**

Signature (Authorized Company Official) \_\_\_\_\_ Date \_\_\_\_\_

Please Print (Name and Title)

**EXHIBIT F**  
**COPY OF TAX AGREEMENT**

[See Attached]



**GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
d/b/a  
GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**

**AND**

**HECATE ENERGY CIDER SOLAR LLC**

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**TAX AGREEMENT**

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**Project Address:**

See Schedule B

**Tax Map Nos.:**

See Schedule B (each as may be subdivided and/or assigned a new tax parcel No.)

**Affected Tax Jurisdictions:**

Genesee County  
Town of Elba  
Town of Oakfield  
Elba Central School District  
Oakfield-Alabama Central School District

**OSC Project Code:**

1801-22-11A

**Dated as of September 13, 2024**

## TAX AGREEMENT

THIS TAX AGREEMENT, dated as of September 13, 2024 (the "Tax Agreement"), is by and between the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**, a public benefit corporation duly existing under the laws of the State of New York, with offices at 99 MedTech Drive, Suite 106, Batavia, New York 14020 (the "Agency") and **HECATE ENERGY CIDER SOLAR LLC**, a limited liability company duly organized and validly existing under the laws of the State of Delaware, with offices at 621 W. Randolph Street, Chicago, Illinois 60661 (the "Company").

### WITNESSETH:

WHEREAS, the Agency was created by Chapter 565 of the Laws of 1970 of the State of New York pursuant to Title I 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 (the "State"); and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of an interest in the Company's fee, leasehold, and easement interests in certain parcels of land located in the Town of Elba and the Town of Oakfield, Genesee County, New York (the "Land", being more particularly described in Schedule B attached hereto); (ii) the planning, design, construction and operation of a 500MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility"); and

WHEREAS, in order to induce the Company to acquire, construct, install and equip the Facility, the Agency is willing to take a leasehold interest in the Facility pursuant to a certain Lease Agreement, dated as of September 13, 2024 (the "Lease Agreement"), and thereafter to lease said Facility back to the Company pursuant to the terms and conditions of a certain Leaseback Agreement, dated as of September 13, 2024 (the "Leaseback Agreement"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments-in-lieu-of-taxes by the Company for the benefit of Genesee County (the "County"), the Town of Elba and the Town of Oakfield (collectively, the "Towns"), and the Elba Central School District and the Oakfield-Alabama Central School

District (collectively, the "School Districts" and, collectively with the County and the Town, the "Affected Tax Jurisdictions").

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:

Section I - Payment in lieu of Ad Valorem Taxes:

Section 1.1 A. Subject to the completion and filing by the Agency prior to the taxable status date of **March 1, 2025** (the "Taxable Status Date") of New York State Form RP-412-a Application For Real Property Tax Exemption (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law (the "RPTL") and Section 874 of the Act with each of the assessors for the Towns (the "Assessors") and the acceptance of the Exemption Application by the Assessors, the Facility shall be classified as exempt from Real Property Taxes (as hereinafter defined) upon the assessment rolls of the Towns during the Term (as defined below) hereof, commencing with the 2025-26 School Districts tax years, and the 2026 County and Town tax years. For purposes of the foregoing "Real Property Taxes" means all general ad valorem real property taxes levied against the Facility by the Affected Tax Jurisdictions. The Company shall provide the Agency with the information necessary for the completion and filing by the Agency of the Exemption Application and shall provide such additional information and take such actions as are required by each of the Assessors to process and accept the Exemption Application. Notwithstanding anything contained herein or in the Leaseback Agreement to the contrary, in the event the exemption from Real Property Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Property Taxes lawfully levied upon the Facility as they become due. After giving written notice to the Agency, the Company may, in good faith, contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost, except as permitted under the Leaseback Agreement; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Property Taxes.

B. Interim Real Property Taxes. To the extent imposed by any of the Affected Tax Jurisdictions, the Company shall pay all Real Property Taxes relating to the Land due and payable from the date hereof through the Taxable Status Date and any applicable time periods prior to those set forth within Section 1.5.

C. Agreement to Make Payments; Due Dates; Invoices. During the Term, as long as the Agency has a leasehold interest in the Facility and the Facility is exempt from Real Property Taxes, the Company shall make annual payments in lieu of taxes ("Payments") directly to the Affected Tax Jurisdictions in the amounts set forth on **Schedule A** attached hereto. Payments to the School Districts in the amounts set forth on **Schedule A** shall be first made on or before the first September 30 occurring after the Commercial Operation Date (as defined below) and, thereafter on or before September 30 of each payment year during the Term (the "School District

Payment Date"). Payments to the Towns in the amounts set forth on Schedule A shall be first made on or before the first January 31 occurring after the Commercial Operation Date (as defined below) and thereafter on or before January 31 of each payment year during the Term (the "Town Payment Date", and together with the School District Payment Date, the "Payment Date"). The County has elected to waive its entitlements to Payments in the amounts set forth on **Schedule A** and the Company shall have no obligation to make such Payments to the County, the Agency or any Affected Tax Jurisdiction pursuant to this Tax Agreement. At least thirty (30) days prior to each Payment Date, the Agency shall present, or require each of the Affected Tax Jurisdictions to present, an invoice to the Company stating the amount of the respective Payment, the payee, and the date when due.

D. Notice of Commercial Operation Date. The "Commercial Operation Date" shall be the date on which the Facility as a whole first commences generating electricity for sale, excluding electricity generated during the period of on-site test operations and commissioning of the Facility. For purposes of this Tax Agreement, the Commercial Operation Date is deemed to be the commercial operation date indicated in the Company's notice of commercial operation to the New York Independent System Operator ("NYISO") for the Facility. Within thirty (30) days after its notice to the NYISO, the Company shall provide notice to the Agency of the Commercial Operation Date. Due to energy market conditions, among other reasons, the Company is not able to make any representations regarding when or whether the Facility will be constructed and therefore when Payments would commence. Notwithstanding anything herein to the contrary, the Company shall not be obligated to make Payments during construction of the Facility and prior to the Commercial Operation Date.

E. Public Purposes. The parties agree and acknowledge that Payments made hereunder are for public purposes of the Affected Tax Jurisdictions, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the Facility is not on the tax rolls.

1.2 Allocation. All Payments due hereunder shall be made directly to the Affected Tax Jurisdictions. However, in the event the Agency receives any Payments pursuant to this Tax Agreement, the Agency shall remit to the Affected Tax Jurisdictions the amount received hereunder, *if any*, within thirty (30) days of receipt of said Payments and shall allocate said Payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.3 Reserved.

1.4 Valuation of Future Additions to the Facility. Any new construction, reconstruction, renovation, re-powering (including solar module substitution), maintenance, modernization and/or upgrading of any existing facilities that does not add generating capacity beyond the actual nameplate AC electric generating capability of the Facility, expressed in MW ("Installed Capacity"), above 500MWac for the Facility as a whole, shall be covered by this Tax Agreement and shall not cause any increase in Payments payable hereunder. However, if there shall be a future addition to the Facility constructed or added in any manner after the Commercial Operation Date that results in an increase in Installed Capacity above 500MWac for

the Facility as a whole, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request, including the increase in Installed Capacity above 500MWac for the Facility as a whole. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the total Payments. The Agency shall notify the Company of such increase in the total Payments related to such Future Addition and send the Company an invoice for such increase at least thirty (30) days prior to the due date thereof. If the Company disagrees with assessed value for any Future Addition set by either of the Assessors, the Company may challenge such assessed value pursuant to Section 4.1 of this Tax Agreement. During the pendency of any such challenge regarding assessed value, the Company shall pay the increase in Total Payments. If the assessed value of the Future Addition is reduced in any proceeding or by subsequent agreement of the Agency or the involved Affected Tax Jurisdictions, the increase in total Payments shall be re-computed and any excess amounts shall be refunded to the Company by the involved Affected Tax Jurisdictions, or- in the event such excess amounts are not refunded to the Company, such excess amounts may be applied by the Company as a credit against the next succeeding Payment(s) to the involved Affected Tax Jurisdictions. The parties understand and agree that the current Installed Capacity contemplates producing 500MWac which is the basis for calculating the Payments hereunder. In the event the Installed Capacity increases above 500MWac, Payments hereunder shall increase by \$2,370 per additional MWac, prorated for any increase less than 1MWac. The Company hereby covenants to provide the Agency, no later than December 31 of each year during the term hereof any and all materials relating to the Project's MWac capacity.

1.5 Term; Scope of Term.

A. This Tax Agreement shall become effective upon the execution and delivery of the Lease Agreement and the Leaseback Agreement by the Company and the Agency and shall continue in effect until the earlier to occur of (i) December 31 of the calendar year in which the last Payment to each of the Towns is due, or (ii) the date on which the Agency's interest in the Facility is terminated pursuant to the Leaseback Agreement (the "Term").

B. Scope of Exemption. In no event shall the Company be entitled to receive an exemption from Real Property Taxes relative to the Facility pursuant to Section 412-a of the RPTL for more than the periods provided for herein, unless the period is extended by amendment to this Tax Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any exemption from Real Property Taxes for the Facility while this Tax Agreement is in effect, which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b of the RPTL. It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

1.6 Certification of Installed Capacity. No less than sixty (60) days following the Commercial Operation Date, the Company shall certify to the Agency the Installed Capacity of the Facility. Thereafter, the Company shall certify to the Agency any change in the Installed Capacity of the Facility within sixty (60) days of any such change. A form of such certification is attached hereto as **Exhibit A**.

1.7 Credits for Real Property Tax Payments. Any Real Property Taxes paid by the Company to the Affected Tax Jurisdictions with respect to the Facility or any portion thereof during the Term will be applied as a credit against Payments due under this Tax Agreement. No credit under this Section shall be given for any Special District Taxes (as defined below) paid by the Company. If the Company desires to claim a credit against any particular Payment due hereunder, the Company shall give the tax levying Affected Tax Jurisdiction and the Agency prior written notice of its intention to claim any credit pursuant to the provisions of this Section, such notice to be given by the Company at least ten (10) days prior to the final date by which such Payment must be paid hereunder. Such credit shall be applied against the next annual Payment made to the levying Affected Tax Jurisdiction. To the extent the amount of Real Property Taxes paid by the Company is greater than the next annual Payment, the amount of the credit insufficiency shall be carried forward and applied to the next annual and future Payments.

## Section II - Special District Charges, Special Assessments and Other Charges.

2.1 Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges (collectively, "Special District Taxes") are not covered by the exemption from Real Property Taxes pursuant to Section 412-a of the RPTL and Section 874 of the General Municipal law. The Company shall pay all Special District Taxes lawfully levied and/or assessed against the Facility as they become due.

## Section III - Transfer of Facility.

3.1 In the event that the Agency's leasehold interest in the Facility is terminated or surrendered by the Agency to the Company (the lease/leaseback agreements are terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section I herein, or this Tax Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to make a payment in lieu of taxes no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, in an amount equal to the Real Property Taxes which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination, until the following tax due date, at which time the Facility would be classified as taxable and would have become obligated to pay Real Property Taxes as they come due.

#### Section IV - Assessment Challenges.

4.1 The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility, with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the Assessors or Boards of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

4.2 The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Tax Agreement, as if and to the same extent as if the Company were the owner of the Facility.

#### Section V - Changes in Law.

5.1 To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

#### Section VI - Events of Default.

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company to: (i) make the payments described in Section I within thirty (30) days of the Payment Date (the "Delinquency Date"); (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; or (iii) the occurrence and continuance of any Events of Default under the Leaseback Agreement beyond any applicable cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the Act and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section 1.1 hereof are not made by the Delinquency Dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows. With respect to Payments to be made pursuant to Section 1.1 hereof, if said Payment is not received by the Delinquency Date defined in Section 6.1 herein, the Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such

Payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, the Company shall pay, in addition to said payment, the greater of the applicable penalties and interest as determined hereunder or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

6.3 Right to Cure. For any monetary Event of Default, the Company shall have the right to cure any such Event of Default and must cure such Event of Default within thirty (30) business days of its receipt from the Agency of a written notice of a monetary Event of Default. The Company shall have the right to cure all non-monetary Events of Default within forty-five days (45) days of receipt of written notice thereof. If such non-monetary Event of Default is not capable of cure within forty-five (45) days and if the Party in breach has commenced a cure and proceeded diligently to effect such cure, then the Party in breach shall have an additional forty-five (45) days to cure unless the non-defaulting Party consents to extend such period. If the Company at any time during the Term prior to the occurrence of an Event of Default provides a written request to the Agency that notices hereunder be provided to a Lender, any such Lender shall be afforded an additional thirty (30) days within which to cure such Event of Default on behalf of the Company (such cure period being beyond the time period allowed for the Company to cure).

#### Section VII - Assignment.

7.1 This Tax Agreement may not be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which shall not be unreasonably conditioned, withheld or delayed; provided, however, that in the event the Leaseback Agreement is assigned by the Company in accordance with the provisions of the Leaseback Agreement, this Tax Agreement shall be subject to consent requirements of the Leaseback Agreement and must be assigned by the Company in connection therewith.

#### Section VIII - Miscellaneous.

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

8.2 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: Genesee County Industrial Development Agency  
d/b/a Genesee County Economic Development Center  
99 MedTech Drive, Suite 106  
Batavia, New York 14020  
Attn: President/CEO



With a Copy To: Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Attn: Russell E. Gaenzle, Esq.

To the Company: Hecate Energy Cider Solar LLC  
621 W. Randolph Street  
Chicago, Illinois 60661  
Attn: Harrison Luna

With a Copy To: Barclay Damon LLP  
125 East Jefferson Street  
Syracuse, New York 13202  
Attn: Matthew S. Moses, Esq.

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. The Agency or the Company may, by notice given hereunder, designate any different manner by which subsequent notices to the Agency or the Company, as the case may be, shall be sent. A copy of all notices to the Company hereunder shall also be served on any Lender (as defined in the Leaseback Agreement) identified pursuant to the Leaseback Agreement, and no such notice or other communication to the Company shall be deemed received unless a copy is so served upon any such Lender in the manner provided herein for the giving of notice.

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

8.4 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Facility and paid to the Agency by the Company. No member of the Agency nor any person executing this Tax Agreement on its behalf shall be liable personally under this Tax Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officers, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Tax Agreement. The obligations and agreements of the Company contained herein and any other instrument or document executed in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Company, and not of any member, officer, agent or employee of the Company in her or his individual capacity, and the members, officers, agents and employees of the Company shall not be liable

personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

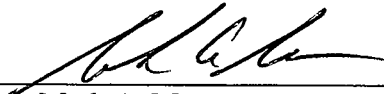
8.5 As an inducement for the Agency to enter into this Tax Agreement, the Agency and the Company have executed, or will execute, a certain PILOT Mortgage, dated as of the date hereof (the "PILOT Mortgage"), wherein the Agency and Company, as mortgagors, have mortgaged their respective interests in the Facility to the Agency, as mortgagee, on behalf of the Affected Tax Jurisdictions, for the purpose of securing the Company's performance and payment obligations hereunder, including the Company's obligation to make timely Total Tax Payments. The PILOT Mortgage, when recorded, shall constitute a first priority lien against the Facility in the maximum principal amount of \$2,866,522.00.

*[Remainder of Page Intentionally Left Blank]*

**[Signature Page to Tax Agreement]**

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

**GENESEE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY, d/b/a  
GENESEE COUNTY ECONOMIC  
DEVELOPMENT CENTER**

By:   
Name: Mark A. Masse  
Title: President/CEO

**HECATE ENERGY CIDER SOLAR LLC**

By: \_\_\_\_\_  
Name: Charles Wheeler  
Title: Authorized Representative


**[Signature Page to Tax Agreement]**

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

**GENESEE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY, d/b/a  
GENESEE COUNTY ECONOMIC  
DEVELOPMENT CENTER**

By: \_\_\_\_\_  
Name: Mark A. Masse  
Title: President/CEO

**HECATE ENERGY CIDER SOLAR LLC**

By:  \_\_\_\_\_  
Name: Christopher Smith  
Title: Authorized Representative

**SCHEDULE A**

**TO**

Tax Agreement dated as of September 13, 2024  
by and between the Genesee County Industrial Development Agency d/b/a  
Genesee County Economic Development Center  
and  
Hecate Energy Cider Solar LLC

<b><u>Tax Year</u></b>	<b><u>Town Payment (Elba)</u></b>	<b><u>Town Payment (Oakfield)</u></b>	<b><u>School District Payment (Elba)</u></b>	<b><u>School District Payment (Oakfield-Alabama)</u></b>
1	\$120,314	\$119,598	\$566,808	\$378,179
2	\$119,651	\$118,940	\$563,687	\$376,097
3	\$118,992	\$118,284	\$560,583	\$374,026
4	\$118,337	\$117,633	\$557,494	\$371,965
5	\$117,684	\$116,984	\$554,420	\$369,914
6	\$117,035	\$116,339	\$551,361	\$367,874
7	\$116,389	\$115,697	\$548,319	\$365,843
8	\$115,746	\$115,058	\$545,290	\$363,823
9	\$115,107	\$114,422	\$542,278	\$361,813
10	\$114,471	\$113,790	\$539,280	\$359,812
11	\$125,991	\$125,242	\$593,556	\$396,026
12	\$125,361	\$124,616	\$590,588	\$394,046
13	\$124,735	\$123,992	\$587,635	\$392,075
14	\$124,111	\$123,373	\$584,697	\$390,116
15	\$123,491	\$122,756	\$581,775	\$388,165
16	\$122,873	\$122,142	\$578,865	\$386,224
17	\$122,259	\$121,531	\$575,971	\$384,293
18	\$121,647	\$120,924	\$573,091	\$382,371
19	\$121,039	\$120,319	\$570,225	\$380,459
20	\$120,434	\$119,717	\$567,374	\$378,557
21	\$119,832	\$119,119	\$564,537	\$376,664
22	\$119,233	\$118,523	\$561,714	\$374,781
23	\$118,636	\$117,931	\$558,906	\$372,907
24	\$118,043	\$117,341	\$556,111	\$371,042
25	\$117,453	\$116,754	\$553,331	\$369,188
26	\$116,866	\$116,171	\$550,564	\$367,341
27	\$116,281	\$115,590	\$547,811	\$365,505
28	\$115,700	\$115,012	\$545,073	\$363,677
29	\$115,121	\$114,437	\$542,347	\$361,859
30	\$114,546	\$113,864	\$539,635	\$360,049

The County has waived the right to receive any payments under this Tax Agreement.

**SCHEDULE B**

[See Attached]

SCHEDULE A

<b>Town of Elba</b>	
<b>Property Address of Underlying Land <sup>1</sup></b>	<b>Tax Parcel Number of Underlying Land <sup>1</sup></b>
Graham Road	16.-1-7.211
Graham Road	16.-1-7.212
Graham Road	16.-1-7.213
Lockport Road	16.-1-9
Quaker Hill Road	16.-1-15.1
Lockport Road	16.-1-19.113
Lockport Road	16.-1-22
Lockport Road	16.-1-26.11
Graham Road	16.-1-26.12
Lockport Road	16.-1-29.11
Lockport Road	16.-1-30.11
Snyder Road	16.-1-31.11
Graham Road	16.-1-35.1
Oak Orchard Road	17.-1-13.11
Barrville Road	17.-1-35
Oak Orchard Road	17.-1-77.21 (includes former 17.-1-77.2)
Oak Orchard Road	17.-1-80.211
North Byron Road	17.-1-96.1
Maltby Road	19.-1-9
Weatherwax Road	19.-1-63.12
Lockport Road	16.-1-1.111
Lockport Road	16.-1-2.1
Oak Orchard Road	17.-1-88
Weatherwax Road	19.-1-64.111
Oak Orchard Road	17.-1-2
Oak Orchard Road	17.-1-49.1
Lockport Road	16.-1-18.11
Oak Orchard Road	17.-1-69
Ridge Road	13.-1-73
Oak Orchard Road	17.-1-46.11
Graham Road	16.-1-8.112
Oak Orchard Road	14.-1-41
Lockport Road	16.-1-26.2
Quaker Hill Road	14.-1-42.1
Quaker Hill Road	17.-1-1.2
Quaker Hill Road	13.-1-99.11
Lockport Road	16.-1-6

<b>Town of Oakfield</b>	
<b>Property Address of Underlying Land <sup>1</sup></b>	<b>Tax Parcel Number of Underlying Land <sup>1</sup></b>
Lockport Road	12.-1-6.11
Lockport Road	12.-1-7
Fisher Road	12.-1-11.2 (includes former 12.-1-10.2)
Lockport Road	13.-1-8
Lockport Road	11.-1-32
Lockport Road	11.-1-34.21
Albion Road	11.-1-35.112
Lockport Road	12.-1-1.2
Fisher Road	12.-1-4.12
Lockport Road	12.-1-8
Lockport Road	12.-1-10.1
Fisher Road	12.-1-11.1
Fisher Road	12.-1-29.1
Lockport Road	12.-1-34.1
Fisher Road	12.-1-56
Lockport Road	12.-1-61.12
Lockport Road	12.-1-63
Fisher Road	13.-1-40
Lockport Road	12.-1-30
Lockport Road	11.-1-33.11
Lockport Road	12.-1-32.111
Lockport Road	12.-1-62.111
Fisher Road	12.-1-5.2 (includes former 12.-1-42)
Lockport Road	12.-1-31.2

<sup>1</sup> The tax parcel numbers and property addresses referenced in the schedule above refer to the interests of the underlying landowners. The final design and layout of the Facility has not been completed. Accordingly, the parcels of land, and therefore the tax parcel numbers and property addresses in the schedule, on which the Facility will be constructed, installed and equipped are subject to change and may be eliminated or supplemented from time to time prior to the Commercial Operation Date pursuant to the terms of the Agency Lease. The underlying parcels of land identified by the above tax parcel numbers are not part of the Facility, except to the extent the Company holds or acquires a fee simple interest therein. It is anticipated that new tax parcel identification numbers will be created to separately identify improvements associated with the Facility following its construction, installation and equipping.



**EXHIBIT A**

**FORM OF INSTALLED CAPACITY CERTIFICATION**

[Date]

Genesee County Industrial Development Agency  
d/b/a Genesee County Economic Development Center  
99 MedTech Drive, Suite 106  
Batavia, New York 14020  
Attn: President/CEO

RE: Hecate Energy Cider Solar LLC Project – Installed Capacity Certification

Hecate Energy Cider Solar LLC hereby certifies that as of the date above, the Hecate Energy Cider Solar LLC solar-powered electric generating facility (the "Facility") has an installed nameplate, alternating current electric generating capability ("Installed Capacity"), measured in megawatts ("MW"), of \_\_\_ MW, being the total installed capacity in the Affected Tax Jurisdiction groups as follows:

Affected Tax Jurisdiction Group	Installed Capacity (MW)
Town of Elba/Elba CSD/ Genesee County	
Town of Oakfield/Oakfield-Alabama CSD/Genesee County	
Combined	

Hecate Energy Cider Solar LLC

By: \_\_\_\_\_  
Name:  
Title: