

ACE - BLYDENBURGH SOLAR, LLC

and

TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY

(TOWN OF ISLIP, NEW YORK)

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COMPANY LEASE AGREEMENT

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Dated as of May 1, 2018

Town of Islip Industrial Development Agency  
(ACE - Blydenburgh Solar, LLC 2018 Facility)

THIS COMPANY LEASE AGREEMENT, dated as of May 1, 2018 (the “**Company Lease**”), is by and between ACE - BLYDENBURGH SOLAR, LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware and authorized to transact business in the State of New York, having its principal office at c/o Agilitas Energy, LLC, 401 Edgewater Place, Suite 265, Wakefield, Massachusetts 01880 (the “**Company**”), and the TOWN OF ISLIP INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its office at 40 Nassau Avenue, Islip, New York 11751 (the “**Agency**”).

## RECITALS

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

WHEREAS, the aforesaid act authorizes the creation of industrial development agencies for the Public Purposes of the State of New York (the “**State**”); and

WHEREAS, pursuant to and in accordance with the provisions of the aforesaid act, as amended, and Chapter 47 of the Laws of 1974 of the State, as amended (collectively, the “**Act**”), the Agency was created and is empowered under the act to undertake the Project Work and the leasing of the Facility defined below; and

WHEREAS, the Agency has agreed to assist in the acquisition of a long term leasehold interest in an approximately 8.4 acre parcel of land located at 440 Blydenburgh Road, Hauppauge, New York 11751 (the “**Land**”), and all buildings and other structures located thereon (the “**Improvements**”), owned by the Town of Islip (the “**Town**”), and the construction of an approximately 8.4 acre solar array thereon and the equipping thereof, including, but not limited to, approximately 6,000 ground-mounted 375-watt solar modules and twenty-five (25) 60 kilowatt inverters (collectively, the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”), to be used by the Company as a solar power generating facility (the “**Project**”); and

WHEREAS, the Company has agreed with the Agency, on behalf of the Agency and as the Agency’s agent, to complete the Project Work (as such term is defined in the hereinafter defined Lease Agreement); and

WHEREAS, the Company has acquired a long-term leasehold interest in the Land and the Improvements from the Islip Resource Recovery Agency (the “**Owner**”), pursuant to a certain Renewable Energy Lease Agreement, dated as of April 22, 2016 (the “**Ground Lease**”), by and between the Owner, as lessor, and the Company, as lessee; and

WHEREAS, the Company has agreed to sublease the Land and the Improvements to the Agency pursuant to and in accordance with this Company Lease; and

WHEREAS, the Agency has agreed to sub-sublease the Land and the Improvements and lease the Equipment to the Company pursuant to the terms of a certain Lease and Project Agreement, dated as of May 1, 2018 (the “**Lease Agreement**”), by and between the Agency

and the Company; and

WHEREAS, the Company has agreed to transfer to the Agency title to the Equipment pursuant to a Bill of Sale, dated the Closing Date (the "**Bill of Sale**").

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties mutually agree as follows:

The Company hereby subleases the Land (described in Exhibit A attached hereto) and the Improvements to the Agency for the annual rent of \$1.00 for a term commencing on the Closing Date and terminating at 11:59 p.m. on November 30, 2039 (the "**Lease Term**").

This Company Lease shall terminate on the earliest of (i) the expiration of the Lease Term and (ii) the termination of the Lease Agreement pursuant to Article X or Article XI thereof.

The Company agrees to keep, perform and observe, from and after the date hereof, all of the terms, covenants, conditions, obligations and other provisions contained in the Lease Agreement. The Company agrees further that it shall indemnify, defend and hold harmless the Agency from and against all liabilities, damages, claims, demands, judgments, losses, costs, expenses, suits, actions or proceedings and attorneys' fees arising out of or in connection with the Lease Agreement or this Company Lease and shall defend the Agency in any suit, action or proceeding, including appeals, for personal injury to, or death of, any person or persons, or for any loss of or damage to property of persons, or for other claims arising out of the acts or omissions of the Company or any of its officers, directors, agents or employees. The foregoing indemnitees shall include all expenses incurred by the Agency, including, without limitation, reasonable attorneys' fees to enforce this Company Lease, the Lease Agreement or any other document to which the Company and the Agency are parties, and with respect to third party claims.

The Agency, for itself and its successors and assigns, hereby agrees to sublease the Land and the Improvements from the Company on the terms and conditions contained herein.

The Company and the Agency acknowledge that the Agency will lease the Equipment and sub-sublease the Land and the Improvements to the Company pursuant to the Lease Agreement. The Company and the Agency agree that while this Company Lease and the Lease Agreement remain in full force and effect, (i) there shall be no merger of the Company's leasehold estate in the Land and the Improvements created under the Ground Lease and the Company's sub-subleasehold estate in the Land and Improvements created under the Lease Agreement; and (ii) the Agency shall continue to have, use and enjoy the subleasehold estate in the Land and the Improvements created under this Company Lease.

The Company and the Agency acknowledge that in order to accomplish certain financing arrangements for the Facility, the parties may be required to assign and mortgage, for collateral purposes, each of their respective rights, titles and interests held pursuant to this Company Lease, the Lease Agreement and other interests that either may hold. Each of the Company and the Agency hereby consents to all such assignments, mortgages and other

collateral financing requirements that may arise in connection with the financing or refinancing of the Facility.

This Company Lease and any and all modifications, amendments, renewals and extensions thereof is subject and subordinate to any Mortgage which may be granted by the Agency and the Company on the Facility or any portion thereof and to any and all modifications, amendments, consolidations, extensions, renewals, replacements and increases thereof.

This Company Lease shall not be recorded by either party hereto. The Agency shall cause a memorandum of lease with respect hereto to be recorded in the office of the Suffolk County Clerk.

All notices, certificates and other communications hereunder shall be in writing and shall be either delivered personally or sent by certified mail, return receipt requested, or delivered by any national overnight express delivery service (in each case, postage or delivery charges paid by the party giving such communication) addressed as follows or to such other address as any party may specify in writing to the other:

To the Agency:

Town of Islip Industrial Development Agency  
40 Nassau Avenue  
Islip, New York 11751  
Attention: Executive Director

With a copy to:

Islip Town Attorney's Office  
40 Nassau Avenue  
Islip, New York 11751  
Attention: Taryn Prusinski, Esq.

To the Company:

ACE - Blydenburgh Solar, LLC  
c/o Agilitas Energy, LLC  
401 Edgewater Place, Suite 265  
Wakefield, Massachusetts 01880  
Attention: Eamonn Healy, Managing Member

With a copy to:

McCauley Lyman, LLC  
10 Speen Street, Third Floor  
Framingham, Massachusetts 01701  
Attention: Jill D. Winans, Esq.

Notice by mail shall be effective when delivered but if not yet delivered shall be deemed effective at 12:00 p.m. on the third Business Day after mailing with respect to certified mail and one Business Day after mailing with respect to overnight mail.

Copies of all notices given either to the Agency or to the Company shall also be sent to any Lender, if such Lender shall have delivered written instructions to the Agency and the Company with the address of such Lender.

If a party hereto determines in its reasonable discretion that any further instruments or other actions are necessary or desirable to carry out the terms of this Company Lease, the other party shall, at the Company's sole cost and expense, execute and deliver all such instruments and take all such actions.

Capitalized terms used in this Company Lease and not otherwise defined in this Company Lease shall have the meanings assigned thereto in Schedule A to the Lease Agreement.

This Company Lease 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.

This Company Lease may not be amended, changed, modified or altered except in writing executed by the parties hereto.

This Company Lease shall be governed exclusively by the applicable laws of the State of New York, without regard or reference to its conflict of laws principles.

This Company Lease and the conveyance made hereby shall be subject to the trust fund provisions of Section 13 of the Lien Law of the State.

(Remainder of Page Intentionally Left Blank – Signature Pages Follow)

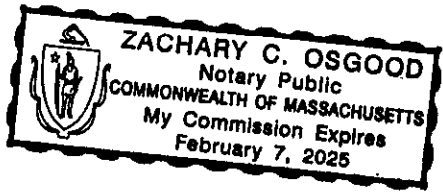
IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

ACE - BLYDENBURGH SOLAR, LLC

By: *Kenneth A. Rubin*  
Name: Kenneth Rubin  
Title: Manager


STATE OF MASSACHUSETTS )  
 : SS.:  
COUNTY OF MIDDLESEX )

On the 3<sup>rd</sup> day of May in the year 2018, before me, the undersigned, personally appeared **Kenneth Rubin**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.



*Zachary C. Osgood*  
Notary Public

**TOWN OF ISLIP INDUSTRIAL  
DEVELOPMENT AGENCY**

By:   
Name: William G. Mannix  
Title: Executive Director

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

On the 2nd day of May in the year 2018, before me, the undersigned, personally appeared **William G. Mannix**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

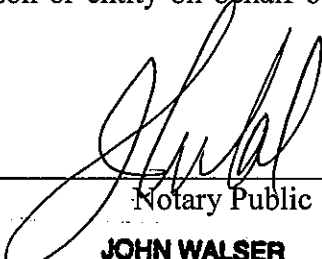
  
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Notary Public  
**JOHN WALSER**  
Notary Public, State of New York  
Registration # 01WA6195090  
Qualified in Suffolk County  
Commission Expires October 20, 2021

EXHIBIT A

Legal Description of Real Property

ALL those certain pieces or parcels of land situate, lying and being in the Town of Hauppauge, County of Suffolk, State of New York, being a portion of lands conveyed to the Islip Resource Recovery Agency by deed recorded in the Suffolk County Clerk's Office in Book 9939, at Page 59 being bounded and described as follows:

COMMENCING at a point on the Westerly right-of-way line of Blydenburgh Road at the division line between lands of the Town of Islip on the East and lands of the Islip Resource Recovery Agency on the West;

THENCE along the last mentioned division line the following two (2) courses:

- 1) North 18 degrees 31 minutes 30 seconds East, 255.87 feet and;
- 2) North 19 degrees 27 minutes 30 seconds East, 665.17 feet to the point of beginning, being the Southeasterly corner of the herein described parcel;

THENCE, through said lands of the Islip Resource Recovery Agency the following twenty-six (26) courses;

- 1) North 67 degrees 20 minutes 14 seconds West, 63.45 feet;
- 2) North 33 degrees 10 minutes 51 seconds West, 472.52 feet;
- 3) South 57 degrees 06 minutes 51 seconds West, 91.24 feet;
- 4) North 80 degrees 39 minutes 30 seconds West, 194.00 feet;
- 5) North 51 degrees 54 minutes 07 seconds West, 62.00 feet;
- 6) North 09 degrees 24 minutes 03 seconds East, 54.00 feet;
- 7) North 51 degrees 19 minutes 29 seconds East, 35.00 feet;
- 8) North 09 degrees 19 minutes 41 seconds East, 71.00 feet;
- 9) North 04 degrees 23 minutes 41 seconds West, 99.00 feet;
- 10) North 09 degrees 18 minutes 32 seconds East, 229.00 feet;
- 11) North 16 degrees 55 minutes 30 seconds East, 205.00 feet;
- 12) North 33 degrees 32 minutes 47 seconds East, 224.00 feet;
- 13) North 12 degrees 53 minutes 56 seconds West, 66.00 feet;
- 14) North 09 degrees 19 minutes 42 seconds East, 28.00 feet;
- 15) North 45 degrees 31 minutes 53 seconds East, 48.00 feet;
- 16) South 80 degrees 45 minutes 45 seconds East, 54.00 feet;
- 17) South 61 degrees 33 minutes 37 seconds East, 55.00 feet;
- 18) South 45 degrees 39 minutes 17 seconds East, 233.00 feet;
- 19) South 09 degrees 23 minutes 27 seconds West, 299.00 feet;
- 20) South 28 degrees 00 minutes 52 seconds West, 84.00 feet;
- 21) South 13 degrees 38 minutes 44 seconds West 312.00 feet;
- 22) South 22 degrees 01 minutes 42 seconds West, 94.00 feet;
- 23) South 40 degrees 49 minutes 55 seconds West, 36.68 feet;
- 24) South 33 degrees 11 minutes 02 seconds East, 469.45 feet;
- 25) South 67 degrees 20 minutes 14 seconds East 28.80 feet;
- 26) North 24 degrees 25 minutes 20 seconds East, 30.30 feet and;

South 65 degrees 34 minutes 40 seconds East, 24.81 feet to a point on the Westerly boundary line of the aforementioned road;

THENCE South 19 degrees 28 minutes 30 seconds West, 49.60 feet to the point and place of BEGINNING.