

# UPSTATE SOLAR SOLUTIONS, LLC.

## CONTRACT

THIS CONTRACT, made this \_\_\_\_\_, 2020, by and between Upstate Solar Solutions, LLC ("Contractor") and \_\_\_\_\_ ("Owner"). Owner's phone number is \_\_\_\_\_ and owners address is \_\_\_\_\_

1. Contractor agrees to perform the work ("the Work") described on the attached statement of work for the Owners at/on Owner's property located at Owners address listed above ("the Property")
2. The STATEMENT OF WORK, the GENERAL TERMS AND CONDITIONS OF CONTRACT, the NYSEDA issued NY-SUN incentive program and the SOLAR ENERGY NOTICE AND TERMS and the NY-SUN ADDENDUM TO CUSTOMER AGREEMENT attached hereto are incorporated into and made material parts of this contract.

### STATEMENT OF WORK

3. Contractor agrees to furnish all material and labor necessary to perform the Work for the Owners.

System Size (DC Watts): \_\_\_\_\_

Annual Energy Production (estimated kWh): \_\_\_\_\_

Solar Modules: \_\_\_\_\_

Inverter(s): \_\_\_\_\_

Racking: \_\_\_\_\_

Batteries: \_\_\_\_\_

Roof Mounted

Ground Mounted

Sub Panel Installation - \$350.00

Electrical Panel & Service Upgrade - \$2100.00

Battery Backup - \$ \_\_\_\_\_

4. (A) The Owners agree to pay Contractor for the work on the following schedule:

**Total Contract Price** \$ \_\_\_\_\_ Price Per Watt (DC) \$ \_\_\_\_\_

Less NY-Sun Incentive \$ \_\_\_\_\_

Less Deposit (Maximum 33 1/3%) \$ \_\_\_\_\_

Paid on: \_\_\_\_\_ Check# \_\_\_\_\_

Less Amount Financed \$ \_\_\_\_\_

**Balance due on completion(cash)** \$ \_\_\_\_\_

*Itemized Breakdown:*

	<b>Price</b>	<b>Quantity</b>	<b>Subtotal</b>
<b>Solar Modules</b>			
<b>Inverters</b>			
<b>Racking &amp; BOS</b>			
<b>Batteries</b>			
<b>Labor</b>			

**Total System Cost: \$** \_\_\_\_\_

(B) All accounts unpaid 15 days after the above due dates are subject to a 1.5% per month service charge (18% per annum) accruing from the due date.

(C) Contract price does not include extra work made necessary by after discovered conditions at or on the Property, including but not limited to: concealed pipes, foundation depths in excess of 30 inches, underground utilities requiring relocation, insufficient electrical service requiring upgrade, insufficient electrical system grounding requiring repair or upgrade, inability to use existing water or electrical, rock or other similar material requiring extraordinary methods to remove, lack of necessary roof integrity. Extra costs incurred by the Contractor due to such unknown conditions must be paid by the Owners. Upon encountering such conditions, the Contractor will give the Owner a good faith estimate of any additional cost to be incurred as a result of the newly discovered condition. If the estimated cost is in excess of the original Contract amount the owner may cancel the Contract. In this event the Owner may seek a full refund of any deposit paid to Contractor, less any reasonable site visit fees or engineering costs charged by the Contractor and all materials where located remain the property of the Contractor.

5. Nor withstanding any other remedy available to the Contractor, because the Work involves the installation of system components that are customized for Owners, if this Contract is cancelled by Owners for any reason other than as permitted by Paragraph 11(B) below. Owners must pay the Contractor a sum of money equal to twenty-five percent of the Total Contract Price stated in Paragraph 4(A) above, as fixed, liquidated and ascertained damages, and not as a penalty. In such event all materials, wherever located, remain the property of the Contactor.

6. The estimated starting date is \_\_\_\_\_, and the estimated completion date is \_\_\_\_\_.

The estimated starting and completion dates are approximate and subject to delays caused by circumstances and conditions beyond the Contractor's control, including but not limited to manufacturers' delivery schedules, material shortages, fire, flood, natural disaster and other acts of God, and delays caused by the Owners'. Scheduling of the survey and installation activities is in the sole discretion of the Contractor, and Owners' agree not to unreasonably interfere with such scheduling. The timetable for Contractor's performance of the work is not the essence of this Contract.

7. Contractor shall furnish all permits and licenses.

8. Contractor will deliver to the Owners all manufacturers' warranties, guarantees and/or service agreements on component equipment or appliances upon payment of all monies due hereunder.

9. The Owners represent that they are the owner of the Property. Each Owner is an agent of all Owners for all purposes relating to this Contract.

Contractor:

Owners:

By: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Authorized Representative

Owner

Owner

10. If any provision of this Contract is held unenforceable, the remainder of this Contract shall be enforced as if the unenforceable provision was never included in this contract.

11. (A) The entire agreement between the parties is contained in this Contract and its attachments; it is the only agreement between the Contractor and Owner and it may not be modified except in writing signed by both parties. Owner acknowledge that they have ben furnished a copy of this Contract, the Statement of Work, the General Terms and Conditions of this contract, Notice of Cancelation, and the Solar Energy Notice and Terms and have been given ample opportunity to review the entire agreement.

**(B) You, the buyer (Owners), may cancel this transaction at any time prior to midnight on the third business day after the date of this transaction.**

Contractor:

Owners:

By: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Authorized Representative

Owner

Owner

## GENERAL TERMS AND CONDITIONS OF CONTRACT

1. The Work shall be done in good and workmanlike manner and in compliance with component manufacturers' specifications and applicable building codes. Contractor shall remove all debris resulting from the Work and leave work areas in "broom clean" condition upon completion.
2. All materials provided under this Contract shall be new, unless otherwise specified. All materials are subject to availability. Contractor may at its discretion change or substitute any materials to be used in the work provided that the quality and performance are equal or better to the materials originally specified.
3. The Owners agree to permit Contractor to make all rip outs, openings, close ups, or alteration or changes to existing buildings necessary for the completion of the Work. Contractor will make repairs and/or restoration in each such cases as to conform to pre-work condition as it may deem appropriate. The Owners agree to make available to Contractor all utilities (including, gas, electric, heat and water) to enable it to perform the Work at the expense of the Owners. The Owners agree to allow representatives of the contractor access at all reasonable times prior to completion of any part of the property and buildings. Failure or refusal to allow admission to the work area is a default under this contract.
4. Any changes, additions or extras in either labor or materials provided hereunder shall be at an agreed price and first approved in writing by both Owners and Contractor. The written approval of either Owner shall bind the other.
5. Contractor assumes no responsibility for bringing the existing property into compliance with local building or electrical code requirement. Any additional work required to bring the Property to meet such requirements shall be charged as an "extra". In the event permission of any third party is required to perform any of the work due to property restrictions, zoning laws or otherwise, it shall be the responsibility of the Owners to obtain such permissions.
6. Contractor is not responsible for damages cause by delays as a result of labor strikes, fires, wars, acts of God, the Contractor's inability to obtain materials or any other causes beyond the direct control of the Contractor.
7. Notwithstanding any other provision in the Contract. Owner s agree to pay Contractor all monies due upon completion of the Work. The Work is completed when the system is installed, without regard to any inspections, interconnection to the utility grid or similar actions of third parties. In the event it is necessary for Contractor engage attorneys to collect sums owed under this contract. Owners agree to pay the Contractor its reasonable attorney's fees.
8. Any Contractor, subcontractor, or materialman who provides home improvement goods or services pursuant to this home improvement contract and who is not paid may have a valid legal claim against your property known as a mechanic's lien. Any mechanic's lien filed against your property may be discharged. Payment of the agreed-upon price under the home improvement contract prior to filing of a mechanic's lien may invalidate such lien. The owner may contact an attorney to determine his rights to discharge a mechanic's lien.
9. LIMITED WARRANTY. As Owners' solar remedy for defective Work. Contractor agrees that it will correct any errors, imperfections, or defects in materials or workmanship provided that notice of such

defects is made to the Contractor within 5 years of installation. The Contractor will not be liable for incidental or consequential damages. Warranty service shall be rendered by the contractor between 8:00am and 3:00pm on weekdays. Warranty service requests made by Owners beyond the 5-year PV installation warranty or 2-year battery system warranty or not in accordance with warranties provided by component manufacturers shall be charged to the Owners at the contractors' then prevailing labor rates charged to other customers. The provisions of this section 8 do not apply to or exclude or modify the warranties of the merchantability and fitness implied by law or limit or modify the remedies available to Owners for the breach of these two implied warranties.

10. Owners shall comply with all maintenance guidelines and manuals provided for all devices installed by the Contractor
11. ARBITRATION. The parties agree to arbitrate all disputes relating to the subject matter of this Contract



# ADDENDUM TO CUSTOMER AGREEMENT

## NY-Sun Incentive Program



*Please check appropriate box below.*

This Agreement is related to a PV project receiving incentive funding under the NY-Sun Residential & Nonresidential Incentive Program

This Agreement is related to a PV project receiving incentive funding under the NY-Sun Commercial & Industrial Incentive Program

***All Participating Contractors must incorporate this Addendum into the agreement between the Contractor and Customer (Agreement) for each PV project receiving incentives.***

**The following terms will apply to all NY-Sun supported PV projects under the Residential & Nonresidential Program or Commercial & Industrial Program:**

**Attorney Consultation:** The Agreement to which this Addendum is attached and made part is a legally binding document; you may wish to consult with an attorney before signing.

**Conflicting Terms:** In the event of a conflict between the terms in any other contractual instrument between the Contractor and Customer and the terms of this Addendum, the terms of this Addendum shall control.

**Assumption of Responsibilities:** Should the Contractor or owner of the PV System, including any associated energy storage system installed under the NY-Sun Program, sell or transfer ownership of the PV System, including, if applicable, the associated energy storage system, during the term of the Agreement, the Contractor/owner agrees that it will alert Customer in advance of such transfer or sale, and that, during the duration of the term of the Agreement, either: (1) the Contractor will remain responsible to the Customer for all obligations and responsibilities stated herein, or (2) under the agreement of sale the buyer will assume all responsibilities to Customer stated herein, if applicable.

**Incentives:** Incentives are only available for the installation of new grid-connected PV Systems and energy storage systems that have not been installed (partially or completely) prior to the Project Application achieving a status of "Approved," as determined by NYSERDA. Incentives are reserved at the incentive level designated in the MW block in effect at the time of application submission. Incentives will not be provided directly to Customers but are paid to the Contractor, who must apply the entire approved amount to the Customer's cost via a corresponding reduction in Customer's Total System Cost or total payments. The Contractor is required to disclose the full amount of the NYSERDA incentive to the end-use customer. The Contractor is not permitted to collect the value of the incentive upfront and reimburse the customer upon completion of the project, or upon receipt of the NYSERDA incentive. Nonresidential projects may request a payment be made to another entity at time of application submission only. The Project Invoice will be submitted by the Contractor or Builder once the system has been installed and interconnected.

**Customer Agreement:** If the Agreement includes an energy storage system, such Agreement must contain a provision whereby Contractor describes how the Storage System will perform in the event of a power outage and how the Storage System will provide backup power. At a minimum, the Agreement shall include a statement that the Storage System will not power the customer's entire home in the event of a power outage and shall describe: (1) the percentage of charge the Storage System will draw

# ADDENDUM TO CUSTOMER AGREEMENT

## NY-Sun Incentive Program



from a paired PV System; (2) how many electrical circuits or appliances the Storage System can provide backup power for and at what amperages; (3) any reserve levels Contractor will establish for the Storage System; and (4) whether and how the Contractor may or will administer and operate the Storage System to optimize the customer's home energy production and consumption and/or for demand response or other utility-based programs.

**Inspection/Reporting/Commissioning:** For quality control purposes, all parties including the Customers must provide NYSERDA or its representative with reasonable access to the PV System, including any associated energy storage system installed under the NY-Sun Program, in order to conduct site inspections or remote monitoring services. Final incentive payment may be contingent on NYSERDA inspection of the installed PV System and/or energy storage system.

**Publicity and Site Events:** Customers and Contractors are required to collaborate with NYSERDA's Director of Communications should they prepare any press release or plan any news conference related to the PV System and if applicable, the energy storage system. NYSERDA is authorized to use PV System and energy storage system photographs in brochures, on its website, and in other print materials.

**Tax Incentives:** Customers are encouraged to consult the Internal Revenue Service (See [www.irs.gov](http://www.irs.gov)), the NYS Department of Taxation and Finance (See [www.tax.ny.gov](http://www.tax.ny.gov)) and with an accountant/tax adviser for details on eligibility for the credit provided in the law, regardless of whether the Builder/Contractor has provided information regarding the expected tax benefits (real property, federal or state tax incentives, or sales and use tax exemptions).

**Net Metering:** Customers are encouraged to consult with their local utility regarding eligibility for net metering.

**Consumer Information:** New York consumers and customers are encouraged to consult the New York State Office of the Attorney General web site for consumer information: [www.ag.ny.gov](http://www.ag.ny.gov)

The NYS Consumer Protection Board offers additional information with the following publications:

[www.dos.ny.gov/consumerprotection/publications.html](http://www.dos.ny.gov/consumerprotection/publications.html)

Customer authorizes NYSERDA to add Customer to the mailing lists and to share Customer's information with New York State government and other entities doing business on NYSERDA's behalf. Customer reserves the right to unsubscribe at any time.

**Communication with Customer:** Contractor and Customer agree that NYSERDA may, at NYSERDA's discretion, communicate by voice and/or written format with any PV System Customer with respect to any matter relevant to a proposed or installed PV System and if applicable, a proposed or installed energy storage system. Such communications may be in reply to an inquiry from a Customer or at NYSERDA's initiation.

**Disclaimer:** The Customer understands that neither NYSERDA nor the State of New York: (1) endorse any Contractor; or (2) guarantee, warranty, or in any way represent or assume liability for any work proposed or carried out by a Contractor or Installer. Additionally, NYSERDA is not responsible for assuring that the design, engineering and construction of the project or installation of any solar electric generation system, including if applicable, any energy storage system, is proper or complies with any particular laws, regulations, codes, licensing, certification and permit requirements, or industry standards. NYSERDA does



# ADDENDUM TO CUSTOMER AGREEMENT

## NY-Sun Incentive Program



not make any representations of any kind regarding the results to be achieved by the solar generation systems, including if applicable, any energy storage system, or the adequacy or safety of such measures.

**Cost Estimate/Total System Price:** The Customer has relied upon the Contractor to include any and all costs associated with the complete installation of the proposed PV system, including if applicable, any energy storage system, in the Agreement. If additional costs are sought from the Customer, the Agreement may be cancelled without penalty and the customer may seek a full refund of any deposit paid to Contractor or costs the Customer incurred under the Agreement, less any reasonable site visit fees charged by the Contractor.

**Incentive Estimate:** If the Contractor does not submit a completed Project Application to NYSERDA, or if the Project Application (a) is not approved by NYSERDA or (b) if NYSERDA approves a lower incentive, the Customer may terminate the Agreement without penalty and seek a full refund of any deposit paid to Contractor or costs he or she incurred under the Agreement, less any reasonable site visit fees charged by the Contractor.

**Approved System Design:** NYSERDA may review the design of the PV System, including if applicable, any energy storage system, considering issues including, but not limited to, system layout, orientation, shading, expected output, etc. NYSERDA approval of the Project Application is contingent on adherence to the proposed system design. Contractors/Builders must receive approval from NYSERDA for any material modification of the proposed system or its components, or the incentive may be revoked.

**System Warranty for Purchase Agreements:** The Contractor shall offer a full, transferable warranty to the purchaser of the PV System installed under this Customer Purchase Agreement for a period of five (5) years after the Contractor has completed the installation and NYSERDA's final approval has been provided. This warranty covers all components of the generating system against breakdown or degradation in electrical output of more than 10% from the original rated electrical output. This warranty shall cover the full cost, including labor, repair, and replacement of defective components or systems. The contractor shall provide warranty coverage in a timely manner regardless of the level of support from the equipment manufacturer. Warranty service requests shall be responded to within 72 hours and repairs shall be completed within 30 days. Storage equipment must consist of commercial products carrying at least a 10-year manufacturer warranty. The warranty must cover the entire energy storage system including ancillary equipment and power electronics. The Contractor shall provide the customer with information on any additional or extended warranties that may be applicable.

**Production Warranty for PPA/Leases:** The Contractor shall offer a production guarantee to the Customer for the initial term of this Agreement, at a minimum. This production guarantee will provide the Customer with compensation if the system produces less than the guaranteed output as specified in the PPA or lease agreement. Guaranteed output may not allow cumulative degradation in electrical output of more than 1% per year from the original rated electrical output for the initial term of this agreement. Under no circumstance will the Customer be responsible for any labor and repair or replacement costs of defective components or systems over the initial term of this Agreement. Should the Customer sell the property at which the solar facility is located, the production guarantee is fully transferrable to a new lessee, consistent with the terms of the lease or PPA.

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## NY-Sun Incentive Program



**The following term will apply ONLY to NY-Sun supported PV projects under the Commercial & Industrial Program:**

**Commercial & Industrial Energy Assessment:** The Contractor will provide building owners with information on benchmarking tools, such as ENERGY STAR's portfolio manager benchmarking tool or other equivalent tool. If requested by the building owner, the Contractor or Builder will help input utility bill information in the tool in order to calculate an energy use index and, where applicable, an ENERGY STAR score. Customers will not be required to benchmark or implement energy efficiency upgrades as a pre-requisite for receiving the standard NY-Sun incentive.

**PV System Completion/Commissioning:** The Contractor agrees to complete the installation of the PV system, and request all necessary inspections, within 912 days of NYSERDA's approval of the Project Application. Unless written approval of an extension has been issued by NYSERDA, the Contractor will be required to return any and all incentive payments to NYSERDA if this milestone is not met.

**The following terms will apply ONLY to NY-Sun supported PV projects under the Residential & Nonresidential Program:**

**System Losses:** All potential system output losses (after all equipment losses are applied) associated with shading, system orientation, tilt angle, etc. may not exceed 20% of optimal system output to receive the full incentive. Such losses must be detailed in each application package using industry accepted shading and orientation tools, verifiable assumptions and calculations. Systems with losses greater than 20% of optimal output due to shading and orientation issues may be considered on a case-by-case basis. However, any available incentives for these systems will be prorated by output loss. In cases where trees or any other obstruction must be removed or moved in order to meet the program rules, incentive payments will not be made until a new shading analysis and photos, verifying that the obstruction(s) have been removed are reviewed and approved by NYSERDA. Any trees or obstructions must be clearly labeled in the site map.

**Green Jobs Green New York (GJGNY) Financing:** Should an eligible residential customer who chooses to access GJGNY financing for their PV system project be unable to proceed with installation of the PV system, due to either the system not meeting the Program's eligibility requirements, or the customer is denied low-interest financing through GJGNY, the customer may terminate the Agreement without penalty and seek a full refund of any deposit paid to /Contractor or costs he or she incurred under the Agreement, less any reasonable site visit fees charged by the /Contractor.

**PV system completion/commissioning:** The Contractor agrees to complete the installation of the PV system, and request all necessary inspections, within 365 days of NYSERDA's approval of the Project Application. Unless written approval of an extension has been issued by NYSERDA, the Contractor will be required to return any and all incentive payments to NYSERDA if this milestone has not been met.

**Residential Clipboard Energy Efficiency Assessment:** The Contractor agrees to complete a clipboard energy efficiency assessment consisting of two main components: an interview of the home owners to determine energy-use habits, and identify energy-saving opportunities, especially low- and no-cost measures that could reduce the electricity load of the residence. The Participating Contractor will review assessment results with the homeowner and provide the homeowner with a copy of the assessment report.

# ADDENDUM TO CUSTOMER AGREEMENT

## NY-Sun Incentive Program



Customers will not be required to implement energy efficiency upgrades as a pre-requisite to receiving the standard NY-Sun incentive, except as required for projects receiving the Affordable Solar residential added incentive.

For projects receiving the Affordable Solar additional incentive, the Contractor and the Customer are required to attest on the application that lighting and water efficiency measures are installed at the residence, meeting the requirements outlined for the Affordable Solar incentive in the NY-Sun Program Manual.

**Nonresidential Energy Assessment:** The Contractor will provide building owners with information on benchmarking tools, such as ENERGY STAR's portfolio manager benchmarking tool or other equivalent tool. If requested by the building owner, the Contractor or Builder will help input utility bill information in the tool in order calculate an energy use index and, where applicable, an ENERGY STAR score. Customers will not be required to benchmark or implement energy efficiency upgrades as a pre-requisite for receiving the standard NY-Sun incentive.

**Affordable Solar Incentive – Contract Requirements:** Contracts for PPA/lease projects receiving the Affordable Solar additional incentive shall not contain price escalators over the life of the agreement, and all projects receiving this incentive shall provide a cost savings to the customer over the life of the agreement, as documented by the Affordable Solar Residential Project Screening Tool included in the incentive application. Contracts for PPA/lease projects participating in the TPO Pilot must reflect that the following requirements are met:

- The project is financed through a fully prepaid lease or PPA, with no outstanding financial obligation to the customer beyond the GJGNY loan.
- The project must provide annual customer cost savings of at least 50% per kWh for the lifetime of the GJGNY loan, as documented in the GJGNY pro-forma tool submitted with the incentive application.
- TPO Pilot projects must not exceed a GJGNY loan size of \$6,000.

**General Business Law:** If this Agreement is deemed to be a Home Improvement Contract under the NYS General Business Law §770, et seq., Customer is entitled to various notices. A description and explanation of this law can be accessed at <http://www.dec.ny.gov/lands/5341.html> This Agreement may also be subject to the federal Consumer Leasing Act (15 USC 1667 et. seq).

<http://www.federalreserve.gov/boarddocs/supmanual/cch/leasing.pdf>

**Statement of Acknowledgement:** By signing, all parties acknowledge that they have read and understand all of the above information and requirements and agree to abide by them.

**Contractor:** By signing below, the Contractor confirms that there is a fully-executed Agreement to install the PV project, and if applicable, the energy storage system, that has been signed by both Contractor and Customer and that the costs and incentives stated on the NYSERDA approved application for incentive funding are complete and accurate. The Contractor is responsible for keeping this document on file. NYSERDA may request, at any time, that a signed copy of this addendum be provided. Contractor further attests that the customer signature appearing below is the true and genuine signature of the customer and that it was affixed to this document on the date indicated.

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## NY-Sun Incentive Program



Print Customer Name \_\_\_\_\_

**Customer Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

Contractor Company Name \_\_\_\_\_

Contractor Name (Print) \_\_\_\_\_

**Contractor Signature** \_\_\_\_\_ **Date** \_\_\_\_\_