

HOST COMMUNITY BENEFIT AGREEMENT

THIS HOST COMMUNITY BENEFIT AGREEMENT ("**HCBA**"), dated as of this 16th day of January, 2023, by and between the **Town of Harford**, a municipal corporation duly organized under the laws of the State of New York ("**Town**"), with offices at 394 NY Route 38, Harford, NY 13784 and **NY Harford I, LLC**, a domestic limited liability company duly organized and validly existing under the laws of the State of New York, with offices at 140 East 45th Street, Suite 32B-1, New York, New York 10017 ("**Company**").

WITNESSETH:

WHEREAS, the Company is developing or shall develop a 4.988 megawatt AC solar project located at 740 O'Brien Hill Road in the Town and designated as Tax Map No. 171.00-03-13.200 ("**Project**"); and

WHEREAS, the Company intends to enter into an agreement respecting the Project making provisions for payments in lieu of taxes ("**PILOT Agreement**") by the Company with the Town for the benefit of the Town; and

WHEREAS, the Company recognizes that the Project will impact the surrounding community, particularly the Town; more specifically, during the development, construction, and long-term operation of said Project, the Town will incur expenses in connection with the exercise of its "police powers" that other political subdivisions and public entities with jurisdiction over the Project area will not; and

WHEREAS, in consideration for the impacts on the community and the support and participation of the Town with respect to the Project, the Company has agreed to pay a Host Community Benefit Fee (as such term is defined in Section 2.1 below) to the Town, as set forth within this HCBA in addition to payments made pursuant to the PILOT Agreement; and

WHEREAS, the Town and the Company wish to memorialize the terms and conditions associated with the payment of the Host Community Benefit Fee.

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 - Representations and Warranties

Section 1.1. Representations and Warranties of the Town.

The Town hereby represents and warrants that, as of the date of this HCBA:

(a) The Town has been duly authorized to execute, deliver and carry out all applicable terms and provisions of this HCBA.

(b) The Town has duly authorized its signatory hereto to execute and enter into this Agreement on behalf of the Town.

(c) Neither the execution and delivery of this HCBA nor the fulfillment of or compliance with the provisions of this HCBA will conflict with or result in a breach of any of the terms, conditions or provisions of any agreement or instrument to which the Town is a party or by which it is bound, or will constitute default under any of the foregoing.

Section 1.2. Representations and Warranties of the Company.

The Company hereby represents and warrants that, as of the date of this HCBA:

(a) The Company is duly organized and validly existing under the laws of the State of New York, has the authority to enter into this HCBA and has duly authorized the execution and delivery of this HCBA.

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

(c) 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 an adverse result would materially diminish or adversely impact on the Company's ability to fulfill its obligations under this HCBA.

(d) No governmental approval by or from any government authority other than the Town is required for the valid execution, delivery, and performance under this HCBA by the Company, except such as are required for the construction, operation and maintenance of the Project, and the Company has no reason to believe that any such government approval will not be made or obtained as required for the Company's performance hereunder.

Article II - Host Community Benefit Fee; Payment, Use.

Section 2.1.

(a) *Host Community Benefit Fee.* In consideration for the impacts on the community and the support and participation of the Town with respect to the Project and the PILOT Agreement, the Company agrees to pay a one-time fee to the Town at its address noted above in the amount of FOUR HUNDRED EIGHTY SIX THOUSAND THREE HUNDRED THRITY THREE DOLLARS and 00/100 CENTS (\$486,330.00) ("**Host Community Benefit Fee**") on or before the commencement of installation of the solar panels ("**Payment Date**").

(b) *Late Payment.* Should the Host Community Benefit Fee not be paid in full as of the Payment Date, said Fee shall be deemed late without any requirement of notice from the Town. Late fees shall be assessed at a rate of one- and one-half percent (1.5%) for each month, or portion of a month that the original amount remains due, until the Host Community Benefit Fee is paid in full. The Company shall be liable to the Town for the Town's reasonable attorneys' fees and related costs/expenses incurred as a result of a late Host Community Benefit Fee payment or any need to enforce the terms of this HCBA.

(c) *Use of Fund; Public Purposes.* The parties agree and acknowledge that the payment made hereunder is to provide revenue to the Town to partially mitigate the additional burdens being placed on the Town as a result of the Project to be used for public purposes to be undertaken by the Town. The revenues paid by the Company to the Town shall be utilized at the sole and absolute discretion of the Town.

Article III – Special Assessments/Special District Taxes

Section 3.1. The Parties acknowledge that the Project shall not be exempt from any special assessments or special district taxes that are ordinarily levied upon the taxable real property of the Town. The Company shall pay all such assessments and/or taxes lawfully levied against the Project. Such assessments and/or taxes, if any, shall be owed in addition to Host Community Benefit Fee hereunder and PILOT payments under the PILOT Agreement for the Project.

Article IV - Termination.

Section 4.1. This HCBA shall terminate upon written notice of termination by the Company to the Town, or upon termination of the term of the PILOT Agreement for the Project between the Town and the Company, whichever occurs sooner. Upon any termination of this HCBA, the Project shall be placed on the taxable portion of the tax roll effective on the next taxable status date of the Taxing Jurisdictions, to the extent required under any applicable law, rule or regulation.

Article V - Miscellaneous.

Section 5.1. This HCBA may be executed in any number of counterparts each of which shall be deemed an original, but which together shall constitute a single instrument.

Section 5.2. 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 Town:
Town of Harford
394 NY-38
Harford, NY 13784

To the Company:
NY Harford I, LLC
140 East 45th Street, Suite 32B-1
New York, NY 10017

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.

Section 5.3. This HCBA 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 or for Cortland County, New York.

Section 5.4.


(a) The obligations and agreements of the Town contained herein shall be deemed the obligations and agreements of the Town, and not of any elected official, officer, agent or employee of the Town in his or her individual capacity, and the elected officials, officers, agents and employees of the Town 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.

(b) The obligations and agreements of the Company contained herein shall be deemed the obligations and agreements of the Company, and not of any member, officer, agent or employee of the Company in 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.

[signature page to follow]

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

TOWN OF HARFORD

By: 
Name: Michelle Morse
Title: Super Visor
Date: 1/18/23

NY HARFORD I, LLC

By: _____
Name: _____
Title: _____
Date: _____

[Signature Page to HCBA]

HOST COMMUNITY BENEFIT AGREEMENT

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WITNESSETH:

WHEREAS, the Company is developing or shall develop a 4.988 megawatt AC solar project located at 740 O'Brien Hill Road in the Town and designated as Tax Map No. 171.00-03-13.200 ("**Project**"); and

WHEREAS, the Company intends to enter into an agreement respecting the Project making provisions for payments in lieu of taxes ("**PILOT Agreement**") by the Company with the Town for the benefit of the Town; and

WHEREAS, the Company recognizes that the Project will impact the surrounding community, particularly the Town; more specifically, during the development, construction, and long-term operation of said Project, the Town will incur expenses in connection with the exercise of its "police powers" that other political subdivisions and public entities with jurisdiction over the Project area will not; and

WHEREAS, in consideration for the impacts on the community and the support and participation of the Town with respect to the Project, the Company has agreed to pay a Host Community Benefit Fee (as such term is defined in Section 2.1 below) to the Town, as set forth within this HCBA in addition to payments made pursuant to the PILOT Agreement; and

WHEREAS, the Town and the Company wish to memorialize the terms and conditions associated with the payment of the Host Community Benefit Fee.

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 - Representations and Warranties

Section 1.1. Representations and Warranties of the Town.

The Town hereby represents and warrants that, as of the date of this HCBA:

(a) The Town has been duly authorized to execute, deliver and carry out all applicable terms and provisions of this HCBA.

(b) The Town has duly authorized its signatory hereto to execute and enter into this Agreement on behalf of the Town.

(c) Neither the execution and delivery of this HCBA nor the fulfillment of or compliance with the provisions of this HCBA will conflict with or result in a breach of any of the terms, conditions or provisions of any agreement or instrument to which the Town is a party or by which it is bound, or will constitute default under any of the foregoing.

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The Company hereby represents and warrants that, as of the date of this HCBA:

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(c) 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 an adverse result would materially diminish or adversely impact on the Company's ability to fulfill its obligations under this HCBA.

(d) No governmental approval by or from any government authority other than the Town is required for the valid execution, delivery, and performance under this HCBA by the Company, except such as are required for the construction, operation and maintenance of the Project, and the Company has no reason to believe that any such government approval will not be made or obtained as required for the Company's performance hereunder.

Article II - Host Community Benefit Fee; Payment, Use.

Section 2.1.

(a) *Host Community Benefit Fee.* In consideration for the impacts on the community and the support and participation of the Town with respect to the Project and the PILOT Agreement, the Company agrees to pay a one-time fee to the Town at its address noted above in the amount of FOUR HUNDRED EIGHTY SIX THOUSAND THREE HUNDRED THRITY THREE DOLLARS and 00/100 CENTS (\$486,330.00) ("**Host Community Benefit Fee**") on or before the commencement of installation of the solar panels ("**Payment Date**").

(b) *Late Payment.* Should the Host Community Benefit Fee not be paid in full as of the Payment Date, said Fee shall be deemed late without any requirement of notice from the Town. Late fees shall be assessed at a rate of one- and one-half percent (1.5%) for each month, or portion of a month that the original amount remains due, until the Host Community Benefit Fee is paid in full. The Company shall be liable to the Town for the Town's reasonable attorneys' fees and related costs/expenses incurred as a result of a late Host Community Benefit Fee payment or any need to enforce the terms of this HCBA.

(c) *Use of Fund; Public Purposes.* The parties agree and acknowledge that the payment made hereunder is to provide revenue to the Town to partially mitigate the additional burdens being placed on the Town as a result of the Project to be used for public purposes to be undertaken by the Town. The revenues paid by the Company to the Town shall be utilized at the sole and absolute discretion of the Town.

Article III – Special Assessments/Special District Taxes

Section 3.1. The Parties acknowledge that the Project shall not be exempt from any special assessments or special district taxes that are ordinarily levied upon the taxable real property of the Town. The Company shall pay all such assessments and/or taxes lawfully levied against the Project. Such assessments and/or taxes, if any, shall be owed in addition to Host Community Benefit Fee hereunder and PILOT payments under the PILOT Agreement for the Project.

Article IV - Termination.

Section 4.1. This HCBA shall terminate upon written notice of termination by the Company to the Town, or upon termination of the term of the PILOT Agreement for the Project between the Town and the Company, whichever occurs sooner. Upon any termination of this HCBA, the Project shall be placed on the taxable portion of the tax roll effective on the next taxable status date of the Taxing Jurisdictions, to the extent required under any applicable law, rule or regulation.

Article V - Miscellaneous.

Section 5.1. This HCBA may be executed in any number of counterparts each of which shall be deemed an original, but which together shall constitute a single instrument.

Section 5.2. 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 Town:
Town of Harford
394 NY-38
Harford, NY 13784

To the Company:
NY Harford II, LLC
140 East 45th Street, Suite 32B-1
New York, NY 10017

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.

Section 5.3. This HCBA 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 or for Cortland County, New York.

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[signature page to follow]

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

TOWN OF HARFORD

By: 
Name: Michelle Morse
Title: Supervisor
Date: 1/18/23

NY HARFORD II, LLC

By: _____
Name: _____
Title: _____
Date: _____

[Signature Page to HCBA]

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WITNESSETH:

WHEREAS, the Company is developing or shall develop a 1.502 megawatt AC solar project located at 35 NYS Route 38 in the Town, and designated as Tax Map No. 172.00-01-03.000 ("**Project**"); and

WHEREAS, the Company intends to enter into an agreement respecting the Project making provisions for payments in lieu of taxes ("**PILOT Agreement**") by the Company with the Town for the benefit of the Town; and

WHEREAS, the Company recognizes that the Project will impact the surrounding community, particularly the Town; more specifically, during the development, construction, and long-term operation of said Project, the Town will incur expenses in connection with the exercise of its "police powers" that other political subdivisions and public entities with jurisdiction over the Project area will not; and

WHEREAS, in consideration for the impacts on the community and the support and participation of the Town with respect to the Project, the Company has agreed to pay a Host Community Benefit Fee (as such term is defined in Section 2.1 below) to the Town, as set forth within this HCBA in addition to payments made pursuant to the PILOT Agreement; and

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Section 2.1.

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(b) *Late Payment.* Should the Host Community Benefit Fee not be paid in full as of the Payment Date, said Fee shall be deemed late without any requirement of notice from the Town. Late fees shall be assessed at a rate of one- and one-half percent (1.5%) for each month, or portion of a month that the original amount remains due, until the Host Community Benefit Fee is paid in full. The Company shall be liable to the Town for the Town's reasonable attorneys' fees and related costs/expenses incurred as a result of a late Host Community Benefit Fee payment or any need to enforce the terms of this HCBA.

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Article III – Special Assessments/Special District Taxes

Section 3.1. The Parties acknowledge that the Project shall not be exempt from any special assessments or special district taxes that are ordinarily levied upon the taxable real property of the Town. The Company shall pay all such assessments and/or taxes lawfully levied against the Project. Such assessments and/or taxes, if any, shall be owed in addition to Host Community Benefit Fee hereunder and PILOT payments under the PILOT Agreement for the Project.

Article IV - Termination.

Section 4.1. This HCBA shall terminate upon written notice of termination by the Company to the Town, or upon termination of the term of the PILOT Agreement for the Project between the Town and the Company, whichever occurs sooner. Upon any termination of this HCBA, the Project shall be placed on the taxable portion of the tax roll effective on the next taxable status date of the Taxing Jurisdictions, to the extent required under any applicable law, rule or regulation.

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Section 5.1. This HCBA may be executed in any number of counterparts each of which shall be deemed an original, but which together shall constitute a single instrument.

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To the Town:
Town of Harford
394 NY-38
Harford, NY 13784

To the Company:
NY Harford III, LLC
140 East 45th Street, Suite 32B-1
New York, NY 10017

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Section 5.3. This HCBA 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 or for Cortland County, New York.

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(a) The obligations and agreements of the Town contained herein shall be deemed the obligations and agreements of the Town, and not of any elected official, officer, agent or employee of the Town in his or her individual capacity, and the elected officials, officers, agents and employees of the Town 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.

(b) The obligations and agreements of the Company contained herein shall be deemed the obligations and agreements of the Company, and not of any member, officer, agent or employee of the Company in 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.

[signature page to follow]

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

TOWN OF HARFORD

By: 
Name: Michelle Morse
Title: Supervisor
Date: 1/18/23

NY HARFORD III, LLC

By: _____
Name: _____
Title: _____
Date: _____

[Signature Page to HCBA]

TEMPORARY ROAD USE AGREEMENT

This Temporary Road Use Agreement is entered into this 16th day of January, 2023, by and between the **Town of Harford**, a municipal corporation duly organized under the laws of the State of New York ("Town"), with offices at 394 NY Route 38, Harford, NY 13784 and **NY Harford I, LLC and NY Harford II, LLC**, each a domestic limited liability company duly organized and validly existing under the laws of the State of New York, with offices at 140 East 45th Street, Suite 32B-1, New York, New York 10017 (collectively, the "Company"). The Company and the Town are each a "Party" and are collectively referred to herein as the "Parties".

RECITALS

WHEREAS, the Company applied for and has been granted, subject to the satisfaction of certain conditions precedent, a special use permit to construct two (2) commercial solar energy systems on property located at 740 O'Brien Hill Road (Tax Map No. 171.00-03-13.200) (collectively, the "Projects"); and

WHEREAS, the Company intends to engage agents, vendors, contractors, subcontractors, and/or haulers (hereinafter "Contractors") to perform construction work for the Projects; and

WHEREAS, the Company/Contractors will necessarily need to traverse the Town's roads, bridges, culverts, rights-of-way or easements owned or maintained by the Town (collectively "Roads") with heavy machinery, including trucks, construction machinery, equipment and other related items (hereinafter "Heavy Vehicles"); and

WHEREAS, the Company acknowledges that such Heavy Vehicles may unintentionally cause damage to said Roads; and

WHEREAS, as a condition of the special use permit, the Company is required to obtain a permit for the use of Heavy Vehicles on the Roads or enter into a Road Use Agreement with the Town pursuant to Town of Harford Local Law No. 2-2022; and

WHEREAS, the Company, for various business reasons, is required to immediately engage in a phase of construction, which is limited to the work associated with the installation of an inverter pad or platform at the site of the Projects (hereinafter the "Inverter Pad Construction Phase"); and

WHEREAS, the Town seeks guarantees and assurances from the Company that the Company will pay and/or otherwise indemnify the Town for Damage (as defined herein) to the Roads arising from construction during the Inverter Pad Construction Phase; and

WHEREAS, the Company recognizes that it is responsible to repair any Damage to Roads that it may cause as a result of the construction activities during the Inverter Pad Construction Phase as set forth herein.

NOW, THEREFORE, in consideration of these promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Town, each intending to be legally bound, agree as follows:

AGREEMENT

1. Road Route

- a. The Road Route to the Project site within the Town is hereby established as follows.
 - i. From NY-38: Creamery Road and O'Brien Hill Road.
 - ii. From NY-79: Robinson Hill Road, Lacey Road, Creamery Road, O'Brien Hill Road, Barden Road and School House Road.

The Company/Contractors shall only use the Road Route when going to and from the Project site with Heavy Vehicles.

- b. The Parties recognize that, due to unforeseen circumstances, other Roads may become necessary to use to access the site of the Projects. Should any Roads not listed in the Road Route be expected to be used by Heavy Vehicles of the Company/Contractors, at least five (5) days prior to the commencement of such use, the Company shall notify the Town in writing. The Company/Contractors may only use alternate routes/roads if authorized in writing by the Town.

2. Road Damage.

- a. The terms "Damage" or "Damaged" as used in this Agreement shall mean injuries caused by Company's/Contractor's Heavy Vehicles consisting of base failure, alligator cracking, greater than 40% chip seal surface loss, vehicle track marks, an increase in rutting or asphalt of more than ½ inch in depth in the wheel path, shoulder cracking, pot holes, raveling, wheel path in ditch lines and greater than 40% aggregate surface loss on a dirt/gravel road.

- b. The Company shall be liable for any and all Damage to Roads caused by Company/Contractors in accordance with the procedures set forth herein. If any Damage occurs to Roads, Company shall notify the Town within 48 hours of such Damage in writing detailing the Damage. If the Company does not so notify the Town of any Damage and the Town Highway Superintendent reasonably determines that Damage has occurred, the Town shall submit a written notice to the Company detailing the Damage. The Company shall, at the request of the Town, undertake immediate repairs to the Damaged Roads, including retention of necessary contractors and subcontractors, and shall coordinate such activities with the Town. Such repairs shall be at the sole cost and expense of the Company.

- c. If Damage to Roads results in an immediate danger to the public, as determined by the Town Highway Superintendent, the Town may undertake immediate emergency repairs to said Roads. Immediate danger to the public includes any condition that, in the opinion of the Highway Superintendent, creates a safety risk if not repaired within the next 10 days. Should the Town undertake such emergency repairs, the Company shall fully reimburse the Town for the reasonable repair costs within 30 days of receipt of an invoice for such repairs.

- d. The manner of repair of any Road Damage described in this Agreement shall be at the reasonable discretion of the Town Highway Superintendent consistent with the Road standards that are otherwise applicable throughout the Town for the type of road involved.

e. Company warrants that all repairs to Damaged Roads that it completes under this Agreement (but not those repairs completed solely by the Town) shall withstand and sustain normal wear and tear for a period of one (1) year from the initial repair.

3. Additional Company Responsibilities.

a. Company agrees that it shall be responsible for disposing of all debris, garbage and waste related to the Project that is left upon the Road Route by the Company/Contractors.

b. Company shall be responsible for obtaining any and all applicable approvals, permits and/or orders related to the Project.

c. Company/Contractors shall not unreasonably block, obstruct or interfere with the flow of traffic along the Road Route. Company agrees that any proposed temporary Road closings will be properly coordinated in advance with the Town and/or State.

d. Company shall require that each and every employee, agent, vendor, contractor, subcontractor, and hauler will comply with the terms and conditions of this Agreement and the Company shall be responsible for each and every employee, agent, vendor, contractor, subcontractor, and hauler that fails to comply with the terms of this Agreement.

4. Cure.

In the event the Town believes a default in the obligations of the Company under this Agreement has occurred, the Town shall give the Company written notice of such alleged default and the Company shall have five (5) days from the receipt of such notice to cure such alleged default, except that should the nature of the alleged default be such that it cannot be reasonably cured within such five (5) days the Company need only commence cure activities within such five (5) days and shall have a reasonable amount of time after the expiration of the five (5) day period to cure such alleged default.

5. Term.

The Term of this Agreement shall be from the Effective Date until the completion of the Inverter Pad Construction Phase. Said construction phase is expected to commence on or about January 18, 2023 and be complete on or about January 29, 2023. This Temporary Road Use Agreement shall expire on the date on which the Company notifies the Town in writing that the Inverter Pad Construction Phase is complete, or February 28, 2023, whichever occurs sooner, unless the Parties agree to a different date in a separate writing, duly executed by the Parties. Upon the expiration of this Agreement, the Company's Heavy Vehicles shall not be allowed to travel on the Roads without first obtaining a permit for the use such Heavy Vehicles on the Roads or entering into a successor Road Use Agreement with the Town pursuant to Town of Harford Local Law No. 2-2022. Notwithstanding the foregoing, the Company's obligation to repair or reimburse the Town for the repair of any Damage caused to the Roads by the Company's Heavy Vehicles during the Inverter Pad Construction Phase shall survive the expiration of this Agreement.

6. Dispute Resolution

Any litigation related to this Agreement shall be initiated before a court of competent jurisdiction located in the State of New York. The parties hereby agree that any such litigation shall be venued in Cortland County.

7. Indemnification

To the fullest extent permitted by law, the Company shall defend, indemnify and hold harmless the Town, its agents and employees from and against all claims, damages, losses and expenses (including reasonable attorneys' fees), arising out of or resulting from the Company's breach of this Agreement, Damage to the Roads caused by the Company/Contractors, or Company's negligent or willful misconduct in the course of Company's completion of Road repairs under this Agreement.

8. Captions and Headings

Captions and headings throughout this Agreement are for convenience and reference only and the words contained in said captions and headings shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision or of the scope or intent of this Agreement.

9. Modifications.

This Agreement cannot be changed orally, but only by agreement in writing signed by the Parties against whom enforcement of the change, modification or discharge is sought or by its duly authorized agent.

10. Severability; No Waiver.

If any provision of this Agreement, or any portion of any provision of this Agreement, is declared null and void, such provision or such portion of a provision shall be considered separate and apart from the remainder of this Agreement, which shall remain in full force and effect. The waiver by any party hereto of a breach or violation of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach or violation.

11. Governing Law.

This Agreement shall be governed and construed in accordance with the laws of the State of New York.

12. Binding Effect.

This Agreement shall be binding upon, and inure to the benefit of the Parties hereto and their respective successors and assigns.

13. Entire Agreement.

The entire agreement of the Parties is contained in this Agreement. No promises, inducements or considerations have been offered or accepted except as herein set forth. The parties hereto agree to execute and deliver such other documents and to perform such other acts as may, from time to time, be reasonably required to give full force and effect to the intent and purpose of this Agreement.

14. Counterparts.

This Agreement may be entered in counterparts, each of which will be considered an original, and all of said counterparts shall together constitute one and the same instrument which may be sufficiently evidenced by one counterpart.

15. Authority of Parties.

The individuals who have executed this Agreement on behalf of the respective Parties expressly represent and warrant that they are authorized to sign on behalf of such entities for the purpose of duly binding such entities to this Agreement.

16. Notice.

a. Any notice or other communication required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given (1) upon hand delivery, or (2) on the first day following delivery via a nationally registered United States overnight courier service.

b. For purposes of this Agreement only, any notices to the Parties shall be directed as set forth below:

For Company:	NY Harford I, LLC NY Harford II, LLC Attn: 140 East 45th Street Suite 32B-1 New York, New York 10017
With a copy to:	Law Office of Richard W. Chun, PLLC Attn: Richard W. Chun, Esq. 1225 Franklin Avenue, Suite 325 Garden City, New York 11530
For Town:	Town of Harford Attn: Town Supervisor 394 NY Route 38 Harford, NY 13784
With a copy to:	Coughlin & Gerhart, LLP Attn: Nicholas S. Cortese, Esq. 99 Corporate Dr. Binghamton, NY 13904

The parties may change their notice addresses upon written notice to the other Party using a method set forth in this Section.

IN WITNESS WHEREOF, Company and Town have caused their respective, duly authorized officers to execute this Agreement under seal as of the day and year first above written.

HARFORD I, LLC

By: _____

Name: _____

Title: _____

Date: _____

TOWN OF HARFORD

By:  _____

Name: Michelle Morse

Title: Supervisor

Date: 1/18/23

HARFORD II, LLC

By: _____

Name: _____

Title: _____

Date: _____

PAYMENT IN LIEU OF TAXES AGREEMENT
FOR SOLAR ENERGY SYSTEMS

among

TOWN OF HARFORD, NY

and

NY HARFORD I, LLC

Dated as of January 16, 2023

RELATING TO A PORTION OF THE PROPERTY LOCATED AT 740
O'BRIEN HILL ROAD (Tax Map Number 171.00-03-13.200) IN THE TOWN
OF HARFORD, CORTLAND COUNTY, NEW YORK.

PAYMENT IN LIEU OF TAXES AGREEMENT
FOR SOLAR ENERGY SYSTEMS PURSUANT TO REAL PROPERTY TAX LAW § 487

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR REAL PROPERTY, effective as of the date on the cover page above, by and among **NY HARFORD I LLC** ("**Owner**"), a domestic limited liability company duly organized and validly existing under the laws of the State of New York with a principal place of business located at 140 East 45th Street, Suite 32B-1, New York, NY 10017 and the **TOWN OF HARFORD**, Cortland County, New York, (the "**Town**" or the "**Taxing Jurisdiction**"), a municipal corporation duly established under the laws of the State of New York with offices located at 394 NY Route 38, Harford, NY 13784. Owner and the Taxing Jurisdiction are collectively referred to in this Agreement as the "**Parties**" and are individually referred to as a "**Party**".

RECITALS

WHEREAS, Owner has submitted a Notice of Intent to the Taxing Jurisdiction that it plans to build and operate a "**Solar Energy System**" as defined in New York Real Property Tax Law ("RPTL") Section 487(1)(b) (hereinafter the "**Project**") with an expected nameplate generating capacity ("**Capacity**") of approximately 4.988 Megawatts AC on a portion of the parcel of land located within the Town of Harford at 740 O'Brien Hill Road and to be assigned a new tax account number, as shown in Exhibit "A" (hereinafter the "**Property**"); remainder of the parcel shall remain taxable; and

WHEREAS, the Taxing Jurisdiction has not opted out of RPTL Section 487; and

WHEREAS, pursuant to RPTL Section 487(9)(a), the Taxing Jurisdiction has indicated its intent to require a Payment in Lieu of Taxes ("**PILOT**") Agreement with the Owner, under which the Owner (or any successor owner of the Project) will be required to make annual payments to the Taxing Jurisdiction for each year during the term of this Agreement; and

WHEREAS, the Owner has submitted or will submit to the assessor of the Town a RP-487 Application for Tax Exemption of Solar or Wind Energy Systems or Farm Waste Energy Systems, demonstrating its eligibility for a real property tax exemption pursuant to RPTL Section 487; and

WHEREAS, the Parties intend that, during the term of this Agreement, the Project will be placed on exempt portion of the assessment roll and the Owner will not be assessed for any statutory real property taxes for which it might otherwise be subjected under New York law with respect to the Project.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Representations of the Parties.

- (a) The Owner hereby represents, warrants, and covenants that, as of the date of this Agreement:
1. The Owner is duly organized, and a validly existing limited liability company, duly authorized to do business in the State of New York, has requisite authority to conduct its business as presently conducted or proposed to be conducted under this Agreement, and has full legal right, power, and authority to execute, deliver, and perform all applicable terms and provisions of this Agreement.
 2. All necessary action has been taken to authorize the Owner's execution, delivery, and performance of this Agreement and this Agreement constitutes the Owner's legal, valid, and binding obligation enforceable against it in accordance with its terms.
 3. None of the execution or delivery of this Agreement, the performance of the obligations in

connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof will:

- (i) conflict with or violate any provision of the Owner's Certificate of Formation, bylaws or other organizational documents or of any restriction or any agreement or instrument to which the Owner is a party and by which it is bound;
- (ii) conflict with, violate, or result in a breach of any applicable law, rule, regulation, or order of any court or other taxing jurisdiction or authority of government or ordinance of the State or any political subdivision thereof; or
- (iii) conflict with, violate, or result in a breach of or constitute a default under or result in the imposition or creation of any mortgage, pledge, lien, security interest, or other encumbrance under this Agreement or under any term or condition of any mortgage, indenture, or any other agreement or instrument to which it is a party or by which it or any of the Owner's properties or assets are bound. There is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against the Owner, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on the Owner's ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

(b) The Taxing Jurisdiction hereby represents, warrants, and covenants that, as of the date of this Agreement:

- 1. The Taxing Jurisdiction is duly organized, validly existing, and in good standing under the laws of the State of New York and has full legal right, power, and authority to execute, deliver, and perform all applicable terms and provisions of this Agreement,
- 2. All necessary action has been taken to authorize the Taxing Jurisdiction's execution, delivery, and performance of this Agreement, and this Agreement constitutes the Taxing Jurisdiction's legal, valid, and binding obligation enforceable against it in accordance with its terms.
- 3. No governmental approval by or with any government authority is required for the valid execution, delivery, and performance under this Agreement by the Taxing Jurisdiction except such as have been duly or will be obtained or made.
- 4. There is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against the Taxing Jurisdiction, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on the Taxing Jurisdiction's ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

2. Tax Exemption; Payment in Lieu of Real Property Taxes.

- (a) Tax-Exempt Status of the Project. Pursuant to RPTL 487 the Parties hereto agree that the Project shall be placed by the Taxing Jurisdiction as exempt upon the assessment rolls of the Taxing Jurisdiction. A Real Property Tax Exemption Form (RP 487) has or will be filed with the Assessor responsible for the Taxing Jurisdiction and the Project is eligible for exemption pursuant to RPTL 487 (4).
- (b) Owner agrees to make annual lump sum payments to the Taxing Jurisdiction in lieu of real property taxes for the Project for a period of fifteen (15) consecutive fiscal tax years (the

“Term”); annual payments may not exceed the amounts that would otherwise be payable but for the RPTL 487 exemption.

Such 15-year term shall commence on the first taxable status date following commencement of the any construction activities associated with the Project (the “**Commencement Date**”); and shall end the fifteenth fiscal year following the date on which the Project is commissioned by the local utility and is delivering energy to the local utility grid (the “**Commercial Operations Date**”) of the Project. For purposes of this Agreement, construction activities shall include, but not be limited to, any work related to preparation of the Project site, land clearing/grading, construction of access roads and other, similar activities. The Taxing Jurisdiction’s first annual payment shall be in the aggregate amount of the Taxing Jurisdictions allocation percentage of three hundred dollars and 00/100 cents (\$300.00) per Megawatt AC of Capacity (the “**Annual Payment**”) Thereafter Annual Payments will escalate by two percent (2%) per year.

Based on the Capacity of 4.988 Megawatts AC, Annual Payments to be made by Owner during the term of this Agreement shall be as listed in Exhibit B. Each Annual Payment will be paid to the Taxing Jurisdiction in accordance with Section 5 of this Agreement. The Annual Payment amount and payment due date will be noted on an annual bill issued by the Town to the Owner, provided that any failure of the Town to issue such a bill shall not relieve Owner of its obligation to make timely payments under this section.

- (c) Owner agrees that the payments in lieu of taxes under this Agreement will not be reduced on account of a depreciation factor or reduction in the Taxing Jurisdiction tax rate, and the Taxing Jurisdiction agrees that the payments in lieu of taxes will not be increased on account of an inflation factor or increase in the Taxing Jurisdiction tax rate, all of which factors have been considered in arriving at the payment amounts reflected in this Agreement.

3. Change in Capacity at Commercial Operation Date, Adjustments to Annual Payments.

To the extent that the Capacity of the Project is more or less than the 4.988 Megawatts AC on the Commercial Operation Date, the payments set forth in Exhibit B will be increased or decreased on a pro rata basis.

4. Change in Capacity After Commercial Operation Date, Adjustments to Annual Payments.

If after the Commercial Operation Date the Capacity is increased or decreased as a result of the replacement or upgrade or partial removal or retirement of existing Project equipment or property or the addition of new Project equipment or property, the Annual Payments set forth in Exhibit B shall be increased or decreased on a pro rata basis for the remaining years of the Agreement.

5. Payment Collection.

Annual Payments for the Taxing Jurisdiction shall be made payable to the Town of Harford and mailed to Town of Harford, c/o the Town Clerk, located at 394 NY Route38, Harford, NY 13784 and are due no later than January 31st of each year.

All late payments shall accrue interest at the statutory rate for late tax payments under the laws and regulations of New York State. If any annual payment due under this Agreement remains unpaid on June 1 of any year, this Agreement may be terminated pursuant to Section 12 below.

Owner shall pay the reasonable attorney fees, court and other costs incurred by the Taxing Jurisdiction in the collection of the unpaid amounts. All payments by the Owner hereunder shall be paid in lawful money of the United States of America.

6. Tax Status. Separate Tax Lot.

The Taxing Jurisdiction agrees that during the term of this Agreement, the Taxing Jurisdiction will not assess Owner for any real property taxes with respect to the Project to which Owner might otherwise be subject under New York law, and the Taxing Jurisdiction agrees that this Agreement will exclusively govern the payments of all such taxes, provided, however, that this Agreement is not intended to affect, and will not preclude the Taxing Jurisdiction from assessing, any other taxes, fees, charges, rates or assessments which the Owner is obligated to pay, including, but not limited to, special assessments or special district assessments, fees, or charges for services provided by the Taxing Jurisdiction to the Project.

Nothing in this Agreement shall limit the right of the Owner to challenge the assessment of the Project or the Property pursuant to the RPTL.

7. No Assignments Without Prior Notice; Binding Effect.

(a) This Agreement may not be assigned by Owner, including to an affiliate of Owner or to any party who has provided or is providing financing to Owner for the construction, operation and/or maintenance of the Project, without the prior written consent of the Taxing Jurisdiction; such consent may not be unreasonably withheld if the assignee has agreed in writing to accept all obligations of the Owner. The restrictions on assignment contained herein do not prohibit or otherwise limit changes in control of Owner. If Owner assigns this Agreement with the advance written consent of the Taxing Jurisdiction, the Owner shall be released from all obligations under this Agreement upon assumption hereof in writing by the assignee, provided that Owner shall, as a condition of such assignment, cure any defaults and satisfy all liabilities arising under this Agreement prior to the date of such assignment. A notice of this Agreement may be recorded by Owner and the Taxing Jurisdiction shall cooperate in the execution of required assignments with the Owner and its successors.

(b) Binding Effect. This PILOT Agreement shall run with the Property and inure to the benefit of, and shall be binding upon, the Taxing Jurisdiction, the Owner and their respective successors and assigns.

8. Additional Documentation and Actions.

Subject to applicable laws and regulations, each Party will, from time-to-time hereafter, execute and deliver or cause to be executed and delivered, such reasonable additional instruments and documents as the other Party reasonably requests for the purpose of implementing or effectuating the provisions of this Agreement. Owner shall pay all reasonable attorneys' and consulting fees incurred by the Taxing Jurisdiction to review and negotiate any such instruments or documents.

9. Notices.

All notices, consents, requests, or other communications provided for or permitted to be given hereunder by a Party must be in writing and will be deemed to have been properly given or served upon the personal delivery thereof, via courier delivery service, by hand, or by certified mail, return receipt requested. Such notices shall be addressed or delivered to the Parties at their respective addresses shown below.

If to Owner:
NY Harford I, LLC
140 East 45th Street, Suite 32B-1
New York, NY 10017

If to Town:
Town of Harford
394 NY-38
Harford NY 13784

Any such addresses for the giving of notices may be changed by either Party by giving written notice as provided above to the other Party. Notice given by counsel to a Party shall be effective as notice from such Party.

10. Applicable Law.

This Agreement will be made and interpreted in accordance with the laws of the State of New York. Owner and the Taxing Jurisdiction each consent to the jurisdiction of the New York courts in and for the County in which the Project is located regarding any and all matters, including interpretation or enforcement of this Agreement or any of its provisions. Accordingly, any litigation arising hereunder shall be brought solely in such courts.

11. Termination Rights of the Owner.

Owner may terminate this Agreement at any time on thirty (30) days written notice to the Taxing Jurisdiction. Upon receipt of the Notice of Termination, the Project shall be placed on the taxable portion of the tax roll effective on the next taxable status date of the Taxing Jurisdiction. Owner shall be liable for all Annual Payments due in the year of termination, except that if Owner is required to pay any part-year real property taxes, the Annual Payment for that year shall be reduced pro rata so that the Owner is not required to pay both PILOT payments and real property taxes for any period of time.

12. Termination Rights of Taxing Jurisdiction.

Notwithstanding anything to the contrary in this Agreement, the Taxing Jurisdiction may terminate this Agreement on thirty (30) days written notice to Owner if:

- (a) Owner fails to make timely payments required under this Agreement; or
- (b) Owner has filed, or has had filed against it, a petition in Bankruptcy, or is otherwise insolvent.

13. Remedies: Waiver and Notice.

- (a) No Remedy Exclusive. No remedy herein conferred upon or reserved to Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.
- (b) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any breach of an obligation hereunder shall impair any such right or 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.
- (c) No Waiver. Any failure by the Town or the Owner at any time, or from time to time, to enforce any of the terms, covenants or conditions of this Agreement, or to exercise any rights hereunder shall not constitute a waiver of such terms, covenants, conditions or right and shall not affect or impair such terms or conditions in any way or the rights of the parties at any time to avail themselves of any remedies they may have for any breach of this Agreement.

14. Entire Agreement.

The Parties agree that this is the entire, fully integrated Agreement between them with respect to payments in lieu of taxes for the Project.

15. Amendments.

This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

16. No Third-Party Beneficiaries.

The Parties state that there are no third-party beneficiaries to this Agreement.

17. Severability.

If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

18. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[signature pages to follow]

Executed by the undersigned as of the day and year first written above, each of whom represents that it is fully and duly authorized to act on behalf of and bind its principals.

NY HARFORD I, LLC

Signature: _____
Name: _____
Title: _____
Date: _____

TOWN OF HARFORD

Signature: Michelle Morse
Name: Michelle Morse
Title: Supervisor
Date: 1/12/23

EXHIBIT A

ALL THAT CERTAIN TRACT OR PIECE OF LAND SITUATE IN THE TOWN OF HARFORD, COUNTY OF CORTLAND, STATE OF NEW YORK INTENDED TO DESCRIBE A LEASE AREA OVER THE LANDS OF TERI EHNHOLT & MICHAEL NIZIOL (TA# 171.00-03-13.20) BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, SAID POINT HAVING THE COORDINATES OF N 879245.576, E 918753.528 (NY STATE PLANE COORDINATE ZONE 3102 NY C, NAD_83(2011)), ALSO BEING THE NORTHEAST CORNER OF THE LEASE AREA HEREIN DESCRIBED;

THENCE, THROUGH THE SAID LANDS OF TERI EHNHOLT & MICHAEL NIZIOL THE FOLLOWING FOURTEEN (14) COURSES AND DISTANCES:

1. SOUTH 00°00'00" EAST A DISTANCE OF 1,338.62 FEET TO A POINT;
2. NORTH 90°00'00" WEST A DISTANCE OF 16.18 FEET TO A POINT;
3. SOUTH 77°52'55" WEST A DISTANCE OF 479.88 FEET TO A POINT;
4. NORTH 90°00'00" WEST A DISTANCE OF 593.96 FEET TO A POINT;
5. NORTH 24°58'05" WEST A DISTANCE OF 346.28 FEET TO A POINT;
6. NORTH 00°00'00" WEST A DISTANCE OF 145.04 FEET TO A POINT;
7. NORTH 90°00'00" EAST A DISTANCE OF 369.17 FEET TO A POINT;
8. NORTH 34°40'33" EAST A DISTANCE OF 207.33 FEET TO A POINT;
9. NORTH 00°00'00" EAST A DISTANCE OF 301.98 FEET TO A POINT;
10. NORTH 13°05'50" WEST A DISTANCE OF 288.93 FEET TO A POINT;
11. NORTH 00°00'00" WEST A DISTANCE OF 132.76 FEET TO A POINT;
12. NORTH 90°00'00" EAST A DISTANCE OF 152.77 FEET TO A POINT;
13. NORTH 00°00'00" WEST A DISTANCE OF 93.74 FEET TO A POINT;
14. NORTH 90°00'00" EAST A DISTANCE OF 651.08 FEET TO A POINT, SAID POINT BEING THE POINT OF BEGINNING.

CONTAINING 28.878 ACRES

EXHIBIT B

YEAR	PILOT PAYMENT
1	\$1,496.40
2	\$1,526.33
3	\$1,556.86
4	\$1,587.99
5	\$1,619.75
6	\$1,652.15
7	\$1,685.19
8	\$1,718.89
9	\$1,753.27
10	\$1,788.34
11	\$1,824.10
12	\$1,860.59
13	\$1,897.80
14	\$1,935.75
15	\$1,974.47
TOTAL	\$25,877.87

PAYMENT IN LIEU OF TAXES AGREEMENT

FOR SOLAR ENERGY SYSTEMS

among

TOWN OF HARFORD, NY

and

NY HARFORD II, LLC

Dated as of January 16, 2023

RELATING TO A PORTION OF THE PROPERTY LOCATED AT 740
O'BRIEN HILL ROAD (Tax Map Number 171.00-03-13.200) IN THE TOWN
OF HARFORD, CORTLAND COUNTY, NEW YORK.

PAYMENT IN LIEU OF TAXES AGREEMENT
FOR SOLAR ENERGY SYSTEMS PURSUANT TO REAL PROPERTY TAX LAW § 487

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR REAL PROPERTY, effective as of the date on the cover page above, by and among **NY HARFORD II LLC** ("**Owner**"), a domestic limited liability company duly organized and validly existing under the laws of the State of New York with a principal place of business located at 140 East 45th Street, Suite 32B-1, New York, NY 10017 and the **TOWN OF HARFORD**, Cortland County, New York, (the "**Town**" or the "**Taxing Jurisdiction**"), a municipal corporation duly established under the laws of the State of New York with offices located at 394 NY Route 38, Harford, NY 13784. Owner and the Taxing Jurisdiction are collectively referred to in this Agreement as the "**Parties**" and are individually referred to as a "**Party**".

RECITALS

WHEREAS, Owner has submitted a Notice of Intent to the Taxing Jurisdiction that it plans to build and operate a "**Solar Energy System**" as defined in New York Real Property Tax Law ("**RPTL**") Section 487(1)(b) (hereinafter the "**Project**") with an expected nameplate generating capacity ("**Capacity**") of approximately 4.988 Megawatts AC on a portion of the parcel of land located within the Town of Harford at 740 O'Brien Hill Road and to be assigned a new tax account number, as shown in Exhibit "A" (hereinafter the "**Property**"); remainder of the parcel shall remain taxable; and

WHEREAS, the Taxing Jurisdiction has not opted out of RPTL Section 487; and

WHEREAS, pursuant to RPTL Section 487(9)(a), the Taxing Jurisdiction has indicated its intent to require a Payment in Lieu of Taxes ("**PILOT**") Agreement with the Owner, under which the Owner (or any successor owner of the Project) will be required to make annual payments to the Taxing Jurisdiction for each year during the term of this Agreement; and

WHEREAS, the Owner has submitted or will submit to the assessor of the Town a RP-487 Application for Tax Exemption of Solar or Wind Energy Systems or Farm Waste Energy Systems, demonstrating its eligibility for a real property tax exemption pursuant to RPTL Section 487; and

WHEREAS, the Parties intend that, during the term of this Agreement, the Project will be placed on exempt portion of the assessment roll and the Owner will not be assessed for any statutory real property taxes for which it might otherwise be subjected under New York law with respect to the Project.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Representations of the Parties.

(a) The Owner hereby represents, warrants, and covenants that, as of the date of this Agreement:

1. The Owner is duly organized, and a validly existing limited liability company, duly authorized to do business in the State of New York, has requisite authority to conduct its business as presently conducted or proposed to be conducted under this Agreement, and has full legal right, power, and authority to execute, deliver, and perform all applicable terms and provisions of this Agreement.
2. All necessary action has been taken to authorize the Owner's execution, delivery, and performance of this Agreement and this Agreement constitutes the Owner's legal, valid, and binding obligation enforceable against it in accordance with its terms.
3. None of the execution or delivery of this Agreement, the performance of the obligations in

connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof will:

- (i) conflict with or violate any provision of the Owner's Certificate of Formation, bylaws or other organizational documents or of any restriction or any agreement or instrument to which the Owner is a party and by which it is bound;
- (ii) conflict with, violate, or result in a breach of any applicable law, rule, regulation, or order of any court or other taxing jurisdiction or authority of government or ordinance of the State or any political subdivision thereof; or
- (iii) conflict with, violate, or result in a breach of or constitute a default under or result in the imposition or creation of any mortgage, pledge, lien, security interest, or other encumbrance under this Agreement or under any term or condition of any mortgage, indenture, or any other agreement or instrument to which it is a party or by which it or any of the Owner's properties or assets are bound. There is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against the Owner, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on the Owner's ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

(b) The Taxing Jurisdiction hereby represents, warrants, and covenants that, as of the date of this Agreement:

- 1. The Taxing Jurisdiction is duly organized, validly existing, and in good standing under the laws of the State of New York and has full legal right, power, and authority to execute, deliver, and perform all applicable terms and provisions of this Agreement,
- 2. All necessary action has been taken to authorize the Taxing Jurisdiction's execution, delivery, and performance of this Agreement, and this Agreement constitutes the Taxing Jurisdiction's legal, valid, and binding obligation enforceable against it in accordance with its terms.
- 3. No governmental approval by or with any government authority is required for the valid execution, delivery, and performance under this Agreement by the Taxing Jurisdiction except such as have been duly or will be obtained or made.
- 4. There is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against the Taxing Jurisdiction, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on the Taxing Jurisdiction's ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

2. Tax Exemption; Payment in Lieu of Real Property Taxes.

- (a) Tax-Exempt Status of the Project. Pursuant to RPTL 487 the Parties hereto agree that the Project shall be placed by the Taxing Jurisdiction as exempt upon the assessment rolls of the Taxing Jurisdiction. A Real Property Tax Exemption Form (RP 487) has or will be filed with the Assessor responsible for the Taxing Jurisdiction and the Project is eligible for exemption pursuant to RPTL 487 (4).
- (b) Owner agrees to make annual lump sum payments to the Taxing Jurisdiction in lieu of real property taxes for the Project for a period of fifteen (15) consecutive fiscal tax years (the

“Term”); annual payments may not exceed the amounts that would otherwise be payable but for the RPTL 487 exemption.

Such 15-year term shall commence on the first taxable status date following commencement of the any construction activities associated with the Project (the “**Commencement Date**”); and shall end the fifteenth fiscal year following the date on which the Project is commissioned by the local utility and is delivering energy to the local utility grid (the “**Commercial Operations Date**”) of the Project. For purposes of this Agreement, construction activities shall include, but not be limited to, any work related to preparation of the Project site, land clearing/grading, construction of access roads and other, similar activities. The Taxing Jurisdiction’s first annual payment shall be in the aggregate amount of the Taxing Jurisdiction’s allocation percentage of three hundred dollars and 00/100 cents (\$300.00) per Megawatt AC of Capacity (the “**Annual Payment**”) Thereafter Annual Payments will escalate by two percent (2%) per year.

Based on the Capacity of 4.988 Megawatts AC, Annual Payments to be made by Owner during the term of this Agreement shall be as listed in Exhibit B. Each Annual Payment will be paid to the Taxing Jurisdiction in accordance with Section 5 of this Agreement. The Annual Payment amount and payment due date will be noted on an annual bill issued by the Town to the Owner, provided that any failure of the Town to issue such a bill shall not relieve Owner of its obligation to make timely payments under this section.

(c) Owner agrees that the payments in lieu of taxes under this Agreement will not be reduced on account of a depreciation factor or reduction in the Taxing Jurisdiction tax rate, and the Taxing Jurisdiction agrees that the payments in lieu of taxes will not be increased on account of an inflation factor or increase in the Taxing Jurisdiction tax rate, all of which factors have been considered in arriving at the payment amounts reflected in this Agreement.

3. Change in Capacity at Commercial Operation Date, Adjustments to Annual Payments.

To the extent that the Capacity of the Project is more or less than the 4.988 Megawatts AC on the Commercial Operation Date, the payments set forth in Exhibit B will be increased or decreased on a pro rata basis.

4. Change in Capacity After Commercial Operation Date, Adjustments to Annual Payments.

If after the Commercial Operation Date the Capacity is increased or decreased as a result of the replacement or upgrade or partial removal or retirement of existing Project equipment or property or the addition of new Project equipment or property, the Annual Payments set forth in Exhibit B shall be increased or decreased on a pro rata basis for the remaining years of the Agreement.

5. Payment Collection.

Annual Payments for the Taxing Jurisdiction shall be made payable to the Town of Harford and mailed to Town of Harford, c/o the Town Clerk, located at 394 NY Route38, Harford, NY 13784 and are due no later than January 31st of each year.

All late payments shall accrue interest at the statutory rate for late tax payments under the laws and regulations of New York State. If any annual payment due under this Agreement remains unpaid on June 1 of any year, this Agreement may be terminated pursuant to Section 12 below.

Owner shall pay the reasonable attorney fees, court and other costs incurred by the Taxing Jurisdiction in the collection of the unpaid amounts. All payments by the Owner hereunder shall be paid in lawful money of the United States of America.

6. Tax Status. Separate Tax Lot.

The Taxing Jurisdiction agrees that during the term of this Agreement, the Taxing Jurisdiction will not assess Owner for any real property taxes with respect to the Project to which Owner might otherwise be subject under New York law, and the Taxing Jurisdiction agrees that this Agreement will exclusively govern the payments of all such taxes, provided, however, that this Agreement is not intended to affect, and will not preclude the Taxing Jurisdiction from assessing, any other taxes, fees, charges, rates or assessments which the Owner is obligated to pay, including, but not limited to, special assessments or special district assessments, fees, or charges for services provided by the Taxing Jurisdiction to the Project.

Nothing in this Agreement shall limit the right of the Owner to challenge the assessment of the Project or the Property pursuant to the RPTL.

7. No Assignments Without Prior Notice; Binding Effect.

(a) This Agreement may not be assigned by Owner, including to an affiliate of Owner or to any party who has provided or is providing financing to Owner for the construction, operation and/or maintenance of the Project, without the prior written consent of the Taxing Jurisdiction; such consent may not be unreasonably withheld if the assignee has agreed in writing to accept all obligations of the Owner. The restrictions on assignment contained herein do not prohibit or otherwise limit changes in control of Owner. If Owner assigns this Agreement with the advance written consent of the Taxing Jurisdiction, the Owner shall be released from all obligations under this Agreement upon assumption hereof in writing by the assignee, provided that Owner shall, as a condition of such assignment, cure any defaults and satisfy all liabilities arising under this Agreement prior to the date of such assignment. A notice of this Agreement may be recorded by Owner and the Taxing Jurisdiction shall cooperate in the execution of required assignments with the Owner and its successors.

(b) Binding Effect. This PILOT Agreement shall run with the Property and inure to the benefit of, and shall be binding upon, the Taxing Jurisdiction, the Owner and their respective successors and assigns.

8. Additional Documentation and Actions.

Subject to applicable laws and regulations, each Party will, from time-to-time hereafter, execute and deliver or cause to be executed and delivered, such reasonable additional instruments and documents as the other Party reasonably requests for the purpose of implementing or effectuating the provisions of this Agreement. Owner shall pay all reasonable attorneys' and consulting fees incurred by the Taxing Jurisdiction to review and negotiate any such instruments or documents.

9. Notices.

All notices, consents, requests, or other communications provided for or permitted to be given hereunder by a Party must be in writing and will be deemed to have been properly given or served upon the personal delivery thereof, via courier delivery service, by hand, or by certified mail, return receipt requested. Such notices shall be addressed or delivered to the Parties at their respective addresses shown below.

If to Owner:

NY Harford II, LLC
140 East 45th Street, Suite 32B-1
New York, NY 10017

If to Town:

Town of Harford
394 NY-38
Harford NY 13784

Any such addresses for the giving of notices may be changed by either Party by giving written notice as provided above to the other Party. Notice given by counsel to a Party shall be effective as notice from such Party.

10. Applicable Law.

This Agreement will be made and interpreted in accordance with the laws of the State of New York. Owner and the Taxing Jurisdiction each consent to the jurisdiction of the New York courts in and for the County in which the Project is located regarding any and all matters, including interpretation or enforcement of this Agreement or any of its provisions. Accordingly, any litigation arising hereunder shall be brought solely in such courts.

11. Termination Rights of the Owner.

Owner may terminate this Agreement at any time on thirty (30) days written notice to the Taxing Jurisdiction. Upon receipt of the Notice of Termination, the Project shall be placed on the taxable portion of the tax roll effective on the next taxable status date of the Taxing Jurisdiction. Owner shall be liable for all Annual Payments due in the year of termination, except that if Owner is required to pay any part-year real property taxes, the Annual Payment for that year shall be reduced pro rata so that the Owner is not required to pay both PILOT payments and real property taxes for any period of time.

12. Termination Rights of Taxing Jurisdiction.

Notwithstanding anything to the contrary in this Agreement, the Taxing Jurisdiction may terminate this Agreement on thirty (30) days written notice to Owner if:

- (a) Owner fails to make timely payments required under this Agreement; or
- (b) Owner has filed, or has had filed against it, a petition in Bankruptcy, or is otherwise insolvent.

13. Remedies: Waiver and Notice.

- (a) No Remedy Exclusive. No remedy herein conferred upon or reserved to Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.
- (b) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any breach of an obligation hereunder shall impair any such right or 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.
- (c) No Waiver. Any failure by the Town or the Owner at any time, or from time to time, to enforce any of the terms, covenants or conditions of this Agreement, or to exercise any rights hereunder shall not constitute a waiver of such terms, covenants, conditions or right and shall not affect or impair such terms or conditions in any way or the rights of the parties at any time to avail themselves of any remedies they may have for any breach of this Agreement.

14. Entire Agreement.

The Parties agree that this is the entire, fully integrated Agreement between them with respect to payments in lieu of taxes for the Project.

15. Amendments.

This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

16. No Third-Party Beneficiaries.

The Parties state that there are no third-party beneficiaries to this Agreement.

17. Severability.

If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

18. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[signature pages to follow]

Executed by the undersigned as of the day and year first written above, each of whom represents that it is fully and duly authorized to act on behalf of and bind its principals.

NY HARFORD II, LLC

Signature: _____
Name: _____
Title: _____
Date: _____

TOWN OF HARFORD


Signature: 
Name: Michelle Morse
Title: Supervisor
Date: 1/18/23

EXHIBIT A

ALL THAT CERTAIN TRACT OR PIECE OF LAND SITUATE IN THE TOWN OF HARFORD, COUNTY OF CORTLAND, STATE OF NEW YORK INTENDED TO DESCRIBE A LEASE AREA OVER THE LANDS OF TERI EHNTHOLT & MICHAEL NIZIOL (TA# 171.00-03-13.20) BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, SAID POINT HAVING THE COORDINATES OF N 879245.576, E 918753.528 (NY STATE PLANE COORDINATE ZONE 3102 NY C, NAD_83(2011)), ALSO BEING THE NORTHWEST CORNER OF THE LEASE AREA HEREIN DESCRIBED;

THENCE, THROUGH THE SAID LANDS OF TERI EHNTHOLT & MICHAEL NIZIOL THE FOLLOWING TEN (10) COURSES AND DISTANCES:

1. NORTH 90°00'00" EAST A DISTANCE OF 142.54 FEET TO A POINT;
2. SOUTH 68°40'14" EAST A DISTANCE OF 324.67 FEET TO A POINT;
3. SOUTH 61°46'06" EAST A DISTANCE OF 762.07 FEET TO A POINT;
4. SOUTH 00°00'00" EAST A DISTANCE OF 299.17 FEET TO A POINT;
5. NORTH 90°00'00" EAST A DISTANCE OF 116.64 FEET TO A POINT;
6. SOUTH 02°19'15" EAST A DISTANCE OF 164.13 FEET TO A POINT;
7. NORTH 90°00'00" WEST A DISTANCE OF 108.46 FEET TO A POINT;
8. SOUTH 00°00'00" EAST A DISTANCE OF 396.87 FEET TO A POINT;
9. NORTH 90°00'00" WEST A DISTANCE OF 1,131.21 FEET TO A POINT;
10. NORTH 00°00'00" WEST A DISTANCE OF 1,338.62 FEET TO A POINT, SAID POINT BEING THE POINT OF BEGINNING.

CONTAINING 29.885 ACRES

EXHIBIT B

YEAR	PILOT PAYMENT
1	\$1,496.40
2	\$1,526.33
3	\$1,556.86
4	\$1,587.99
5	\$1,619.75
6	\$1,652.15
7	\$1,685.19
8	\$1,718.89
9	\$1,753.27
10	\$1,788.34
11	\$1,824.10
12	\$1,860.59
13	\$1,897.80
14	\$1,935.75
15	\$1,974.47
TOTAL	\$25,877.87

PAYMENT IN LIEU OF TAXES AGREEMENT
FOR SOLAR ENERGY SYSTEMS

among

TOWN OF HARFORD, NY

and

NY HARFORD III, LLC

Dated as of January 16, 2023

RELATING TO A PORTION OF THE PROPERTY LOCATED AT 35
ROUTE 38 (Tax Map Number 172.00-01-03.000) IN THE TOWN OF
HARFORD, CORTLAND COUNTY, NEW YORK.

PAYMENT IN LIEU OF TAXES AGREEMENT
FOR SOLAR ENERGY SYSTEMS PURSUANT TO REAL PROPERTY TAX LAW§ 487

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR REAL PROPERTY, effective as of the date on the cover page above, by and among **NY HARFORD III LLC** ("**Owner**"), a domestic limited liability company duly organized and validly existing under the laws of the State of New York with a principal place of business located at 140 East 45th Street, Suite 32B-1, New York, NY 10017 and the **TOWN OF HARFORD**, Cortland County, New York, (the "**Town**" or the "**Taxing Jurisdiction**"), a municipal corporation duly established under the laws of the State of New York with offices located at 394 NY Route38, Harford, NY 13784.Owner and the Taxing Jurisdiction are collectively referred to in this Agreement as the "**Parties**" and are individually referred to as a "**Party**".

RECITALS

WHEREAS, Owner has submitted a Notice of Intent to the Taxing Jurisdiction that it plans to build and operate a "**Solar Energy System**" as defined in New York Real Property Tax Law ("RPTL") Section 487(1)(b) (hereinafter the "**Project**") with an expected nameplate generating capacity ("**Capacity**") of approximately 1.502 Megawatts AC on a portion of the parcel of land located within the Town of Harford at Route 28, as shown in Exhibit "A" (hereinafter the "**Property**"); remainder of the parcel shall remain taxable; and

WHEREAS, the Taxing Jurisdiction has not opted out of RPTL Section 487; and

WHEREAS, pursuant to RPTL Section 487(9)(a), the Taxing Jurisdiction has indicated its intent to require a Payment in Lieu of Taxes ("**PILOT**") Agreement with the Owner, under which the Owner (or any successor owner of the Project) will be required to make annual payments to the Taxing Jurisdiction for each year during the term of this Agreement; and

WHEREAS, the Owner has submitted or will submit to the assessor of the Town a RP-487 Application for Tax Exemption of Solar or Wind Energy Systems or Farm Waste Energy Systems, demonstrating its eligibility for a real property tax exemption pursuant to RPTL Section 487; and

WHEREAS, the Parties intend that, during the term of this Agreement, the Project will be placed on exempt portion of the assessment roll and the Owner will not be assessed for any statutory real property taxes for which it might otherwise be subjected under New York law with respect to the Project.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Representations of the Parties.

(a) The Owner hereby represents, warrants, and covenants that, as of the date of this Agreement:

1. The Owner is duly organized, and a validly existing limited liability company, duly authorized to do business in the State of New York, has requisite authority to conduct its business as presently conducted or proposed to be conducted under this Agreement, and has full legal right, power, and authority to execute, deliver, and perform all applicable terms and provisions of this Agreement.
2. All necessary action has been taken to authorize the Owner's execution, delivery, and performance of this Agreement and this Agreement constitutes the Owner's legal, valid, and binding obligation enforceable against it in accordance with its terms.
3. None of the execution or delivery of this Agreement, the performance of the obligations in

connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof will:

- (i) conflict with or violate any provision of the Owner's Certificate of Formation, bylaws or other organizational documents or of any restriction or any agreement or instrument to which the Owner is a party and by which it is bound;
- (ii) conflict with, violate, or result in a breach of any applicable law, rule, regulation, or order of any court or other taxing jurisdiction or authority of government or ordinance of the State or any political subdivision thereof; or
- (iii) conflict with, violate, or result in a breach of or constitute a default under or result in the imposition or creation of any mortgage, pledge, lien, security interest, or other encumbrance under this Agreement or under any term or condition of any mortgage, indenture, or any other agreement or instrument to which it is a party or by which it or any of the Owner's properties or assets are bound. There is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against the Owner, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on the Owner's ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

(b) The Taxing Jurisdiction hereby represents, warrants, and covenants that, as of the date of this Agreement:

1. The Taxing Jurisdiction is duly organized, validly existing, and in good standing under the laws of the State of New York and has full legal right, power, and authority to execute, deliver, and perform all applicable terms and provisions of this Agreement,
2. All necessary action has been taken to authorize the Taxing Jurisdiction's execution, delivery, and performance of this Agreement, and this Agreement constitutes the Taxing Jurisdiction's legal, valid, and binding obligation enforceable against it in accordance with its terms.
3. No governmental approval by or with any government authority is required for the valid execution, delivery, and performance under this Agreement by the Taxing Jurisdiction except such as have been duly or will be obtained or made.
4. There is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against the Taxing Jurisdiction, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on the Taxing Jurisdiction's ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

2. Tax Exemption; Payment in Lieu of Real Property Taxes.

- (a) Tax-Exempt Status of the Project. Pursuant to RPTL 487 the Parties hereto agree that the Project shall be placed by the Taxing Jurisdiction as exempt upon the assessment rolls of the Taxing Jurisdiction. A Real Property Tax Exemption Form (RP 487) has or will be filed with the Assessor responsible for the Taxing Jurisdiction and the Project is eligible for exemption pursuant to RPTL 487 (4).
- (b) Owner agrees to make annual lump sum payments to the Taxing Jurisdiction in lieu of real property taxes for the Project for a period of fifteen (15) consecutive fiscal tax years (the

“Term”); annual payments may not exceed the amounts that would otherwise be payable but for the RPTL 487 exemption.

Such 15-year term shall commence on the first taxable status date following commencement of the any construction activities associated with the Project (the “**Commencement Date**”); and shall end the fifteenth fiscal year following the date on which the Project is commissioned by the local utility and is delivering energy to the local utility grid (the “**Commercial Operations Date**”) of the Project. For purposes of this Agreement, construction activities shall include, but not be limited to, any work related to preparation of the Project site, land clearing/grading, construction of access roads and other, similar activities. The Taxing Jurisdiction’s first annual payment shall be in the aggregate amount of the Taxing Jurisdiction’s allocation percentage of three hundred dollars and 00/100 cents (\$300.00) per Megawatt AC of Capacity (the “**Annual Payment**”) Thereafter Annual Payments will escalate by two percent (2%) per year.

Based on the Capacity of 1.502 Megawatts AC, Annual Payments to be made by Owner during the term of this Agreement shall be as listed in Exhibit B. Each Annual Payment will be paid to the Taxing Jurisdiction in accordance with Section 5 of this Agreement. The Annual Payment amount and payment due date will be noted on an annual bill issued by the Town to the Owner, provided that any failure of the Town to issue such a bill shall not relieve Owner of its obligation to make timely payments under this section.

(c) Owner agrees that the payments in lieu of taxes under this Agreement will not be reduced on account of a depreciation factor or reduction in the Taxing Jurisdiction tax rate, and the Taxing Jurisdiction agrees that the payments in lieu of taxes will not be increased on account of an inflation factor or increase in the Taxing Jurisdiction tax rate, all of which factors have been considered in arriving at the payment amounts reflected in this Agreement.

3. Change in Capacity at Commercial Operation Date, Adjustments to Annual Payments.

To the extent that the Capacity of the Project is more or less than the 1.502 Megawatts AC on the Commercial Operation Date, the payments set forth in Exhibit B will be increased or decreased on a pro rata basis.

4. Change in Capacity After Commercial Operation Date, Adjustments to Annual Payments.

If after the Commercial Operation Date the Capacity is increased or decreased as a result of the replacement or upgrade or partial removal or retirement of existing Project equipment or property or the addition of new Project equipment or property, the Annual Payments set forth in Exhibit B shall be increased or decreased on a pro rata basis for the remaining years of the Agreement.

5. Payment Collection.

Annual Payments for the Taxing Jurisdiction shall be made payable to the Town of Harford and mailed to Town of Harford, c/o the Town Clerk, located at 394 NY Route38, Harford, NY 13784 and are due no later than January 31st of each year.

All late payments shall accrue interest at the statutory rate for late tax payments under the laws and regulations of New York State. If any annual payment due under this Agreement remains unpaid on June 1 of any year, this Agreement may be terminated pursuant to Section 12 below.

Owner shall pay the reasonable attorney fees, court and other costs incurred by the Taxing Jurisdiction in the collection of the unpaid amounts. All payments by the Owner hereunder shall be paid in lawful money of the United States of America.

6. Tax Status. Separate Tax Lot.

The Taxing Jurisdiction agrees that during the term of this Agreement, the Taxing Jurisdiction will not assess Owner for any real property taxes with respect to the Project to which Owner might otherwise be subject under New York law, and the Taxing Jurisdiction agrees that this Agreement will exclusively govern the payments of all such taxes, provided, however, that this Agreement is not intended to affect, and will not preclude the Taxing Jurisdiction from assessing, any other taxes, fees, charges, rates or assessments which the Owner is obligated to pay, including, but not limited to, special assessments or special district assessments, fees, or charges for services provided by the Taxing Jurisdiction to the Project.

Nothing in this Agreement shall limit the right of the Owner to challenge the assessment of the Project or the Property pursuant to the RPTL.

7. No Assignments Without Prior Notice; Binding Effect.

(a) This Agreement may not be assigned by Owner, including to an affiliate of Owner or to any party who has provided or is providing financing to Owner for the construction, operation and/or maintenance of the Project, without the prior written consent of the Taxing Jurisdiction; such consent may not be unreasonably withheld if the assignee has agreed in writing to accept all obligations of the Owner. The restrictions on assignment contained herein do not prohibit or otherwise limit changes in control of Owner. If Owner assigns this Agreement with the advance written consent of the Taxing Jurisdiction, the Owner shall be released from all obligations under this Agreement upon assumption hereof in writing by the assignee, provided that Owner shall, as a condition of such assignment, cure any defaults and satisfy all liabilities arising under this Agreement prior to the date of such assignment. A notice of this Agreement may be recorded by Owner and the Taxing Jurisdiction shall cooperate in the execution of required assignments with the Owner and its successors.

(b) Binding Effect. This PILOT Agreement shall run with the Property and inure to the benefit of, and shall be binding upon, the Taxing Jurisdiction, the Owner and their respective successors and assigns.

8. Additional Documentation and Actions.

Subject to applicable laws and regulations, each Party will, from time-to-time hereafter, execute and deliver or cause to be executed and delivered, such reasonable additional instruments and documents as the other Party reasonably requests for the purpose of implementing or effectuating the provisions of this Agreement. Owner shall pay all reasonable attorneys' and consulting fees incurred by the Taxing Jurisdiction to review and negotiate any such instruments or documents.

9. Notices.

All notices, consents, requests, or other communications provided for or permitted to be given hereunder by a Party must be in writing and will be deemed to have been properly given or served upon the personal delivery thereof, via courier delivery service, by hand, or by certified mail, return receipt requested. Such notices shall be addressed or delivered to the Parties at their respective addresses shown below.

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New York, NY 10017

If to Town:

Town of Harford
394 NY-38
Harford NY 13784

Any such addresses for the giving of notices may be changed by either Party by giving written notice as provided above to the other Party. Notice given by counsel to a Party shall be effective as notice from such Party.

10. Applicable Law.

This Agreement will be made and interpreted in accordance with the laws of the State of New York. Owner and the Taxing Jurisdiction each consent to the jurisdiction of the New York courts in and for the County in which the Project is located regarding any and all matters, including interpretation or enforcement of this Agreement or any of its provisions. Accordingly, any litigation arising hereunder shall be brought solely in such courts.

11. Termination Rights of the Owner.

Owner may terminate this Agreement at any time on thirty (30) days written notice to the Taxing Jurisdiction. Upon receipt of the Notice of Termination, the Project shall be placed on the taxable portion of the tax roll effective on the next taxable status date of the Taxing Jurisdiction. Owner shall be liable for all Annual Payments due in the year of termination, except that if Owner is required to pay any part-year real property taxes, the Annual Payment for that year shall be reduced pro rata so that the Owner is not required to pay both PILOT payments and real property taxes for any period of time.

12. Termination Rights of Taxing Jurisdiction.

Notwithstanding anything to the contrary in this Agreement, the Taxing Jurisdiction may terminate this Agreement on thirty (30) days written notice to Owner if:

- (a) Owner fails to make timely payments required under this Agreement; or
- (b) Owner has filed, or has had filed against it, a petition in Bankruptcy, or is otherwise insolvent.

13. Remedies: Waiver and Notice.

- (a) No Remedy Exclusive. No remedy herein conferred upon or reserved to Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.
- (b) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any breach of an obligation hereunder shall impair any such right or 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.
- (c) No Waiver. Any failure by the Town or the Owner at any time, or from time to time, to enforce any of the terms, covenants or conditions of this Agreement, or to exercise any rights hereunder shall not constitute a waiver of such terms, covenants, conditions or right and shall not affect or impair such terms or conditions in any way or the rights of the parties at any time to avail themselves of any remedies they may have for any breach of this Agreement.

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The Parties agree that this is the entire, fully integrated Agreement between them with respect to payments in lieu of taxes for the Project.

15. Amendments.

This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

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If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

18. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[signature pages to follow]

EXHIBIT B

YEAR	PILOT PAYMENT
1	\$450.60
2	\$459.61
3	\$468.80
4	\$478.18
5	\$487.74
6	\$497.50
7	\$507.45
8	\$517.60
9	\$527.95
10	\$538.51
11	\$549.28
12	\$560.26
13	\$571.47
14	\$582.90
15	\$594.56
TOTAL	\$7,792.41