Host Community Benefit Agreement

between the

Town of Elba and

Hecate Energy Cider Solar LLC

HOST COMMUNITY BENEFIT AGREEMENT

This Host Community Benefit Agreement ("**Agreement**") is made as of June 1, 2024 ("**Effective Date**") by and between **HECATE ENERGY CIDER SOLAR LLC**, a limited liability company formed and existing under the laws of the State of Delaware (the "**Company**"), having its offices at 621 West Randolph Street, Chicago, Illinois 60661, and the **TOWN OF ELBA**, County of Genesee, a municipal corporation duly organized under the laws of New York State ("**Town**"). The Company and the Town are hereinafter referred to each as a "**Party**" or collectively as the "**Parties**."

WITNESSETH

THAT WHEREAS, the Company has received a Siting Permit for a Major Renewable Energy Facility ("**Section 94-c Permit**") pursuant to Section 94-c of the New York Executive Law ("**Section 94-c**"), now known as Article VIII of the Public Service Law, from the New York State Office of Renewable Energy Siting ("**ORES**") to develop, design, construct, operate, maintain, and decommission a ground-mounted solar photovoltaic electric generating facility (the "**Project Facility**") located on various parcels of land in the host communities of the Town and the neighboring Town of Oakfield in Genesee County, New York; and

WHEREAS, the Project Facility includes photovoltaic panels producing direct current ("**DC**") electricity with a planned total rated alternating current ("**AC**") output capacity (the "**Nameplate Capacity**") of up to 500 megawatts ("**MW**") to be mounted on tracking panel racks, inverters to convert DC electricity to AC electricity, a power collection substation, power collection cables, operations and maintenance structure(s), an interconnection substation, and associated furniture, fixtures, machinery, equipment, access roads, security features and improvements; and

WHEREAS, the Nameplate Capacity of the Project Facility planned to be physically located within the Town is about 300 MW; and

WHEREAS, the host community benefit payments the Company has agreed to pay to the Town (the "**Elba HCBA Payments**") pursuant to this Agreement partially satisfy the condition of the Section 94-c Permit and the Section 94-c regulations requiring the Company to provide host community benefits to the host communities of the Project Facility; and

WHEREAS, pursuant to a Host Community Benefit Program established by a February 11, 2021 Order of the New York Public Service Commission, the Company is obligated to pay annual program fees for the benefit of Town and Town of Oakfield residents over the first ten years of operation of the Project Facility, which will distributed equally among all residential utility customers residing in the Towns of Elba and Oakfield as utility bill credits (the "**Utility Bill Credit Program**"), which payments also partially satisfies the condition of the Section 94-c Permit and the Section 94-c regulations requiring the Company to provide host community benefits to the host communities of the Project Facility; and

WHEREAS, the Town Board of the Town has adopted resolutions, copies of which are attached hereto as *Exhibit A*, dated December 8, 2022 and January 4, 2024 (together, the "**HCBA Resolution**"), approving the terms of this Agreement and authorizing its execution; and

WHEREAS, in order to secure the benefits of the Project Facility for the Town and the Company, the Parties believe that their mutual best interests will be served by the execution of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable deliberation, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. REPRESENTATIONS AND WARRANTIES

1.1 Town Representations and Warranties. The Town hereby represents and warrants that, as of the date of this Agreement:

(a) it is a validly existing political subdivision of the State of New York ("**State**");

(b) it has the power and authority to execute, deliver, and carry out all applicable terms and provisions of this Agreement;

(c) all necessary action has been taken to authorize its execution, delivery, and performance of this Agreement, and this Agreement constitutes its legal, valid, and binding obligation enforceable against it in accordance with its terms, and the HCBA Resolution has not been modified or rescinded and is and shall remain in full force and effect as of the date hereof and during the Term hereof;

(d) its signatory hereto is duly authorized and empowered to execute and enter into this Agreement;

(e) none of the execution or delivery of this Agreement, the performance of the obligations in connection with the transaction contemplated hereby, or the fulfillment of the terms and conditions hereof will conflict with or violate any provision of its organizational documents or policies or will conflict with, violate, or result in a breach of any applicable law; and

(f) 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 it, wherein an adverse decision, ruling, or finding could result in a material adverse effect on its ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

1.2 Company Representations and Warranties. The Company hereby represents and warrants that, as of the date of this Agreement:

(a) it is duly organized, validly existing, and in good standing under the laws of the state in which it is formed as set forth in the first paragraph of this Agreement and has requisite authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement;

(b) it has the power and authority to execute, deliver, and carry out all applicable terms and provisions of this Agreement;

(c) all necessary action has been taken to authorize its execution, delivery, and performance of this Agreement, and this Agreement constitutes its legal, valid, and binding obligation enforceable against it in accordance with its terms;

(d) no governmental approval by or with any government authority is required for the valid execution, delivery, and performance under this Agreement by the Company, except such as are required for the construction, operation and maintenance of the Project Facility, 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;

(e) none of the execution or delivery of this Agreement, the performance of the obligations in connection with the transaction contemplated hereby, or the fulfillment of the terms and conditions hereof will (i) conflict with or violate any provision of its articles of organization and operating agreement; (ii) conflict with, violate, or result in a breach of any applicable law; 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 its properties or assets are bound;

(f) 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 it, wherein an adverse decision, ruling, or finding could result in a material adverse effect on its ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement;

(g) the conduct of its business is in compliance with all applicable governmental approvals with which a failure to comply, in any case or in the aggregate, would result in a material adverse effect on its ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement; and

(h) its signatory hereto is duly authorized and empowered to execute and enter into this Agreement.

2. PROJECT FACILITY OWNERSHIP AND TRANSFER

2.1 Applicability. This Agreement is applicable to the Company and its successors and assigns, and to any party assuming the Company's obligations under this Agreement.

2.2 Assignment or Change in Control. The Company shall not have the right to assign this Agreement in connection with a transfer of the Project Facility, or undergo a change in control of the Company, without the written consent of the Town, which consent may not be unreasonably withheld, conditioned or delayed; provided, however, that the Town's consent to assignment or change in control shall not be required for the purchase of the Project Facility, a controlling interest in the Company, or an upstream ownership interest in the Company by Greenbacker Renewable Energy Corporation or any of its affiliates. The Town shall not charge fees in connection with any assignment or change in control. The Company shall be obligated to reimburse the Town for any reasonable attorneys' fees and expenses associated with processing such assignment or change in control. For purposes of this Agreement, change in control of the Company shall mean acquisition or transfer of a controlling interest in the Company, with "controlling interest" having the meaning stated in New York Tax Law Section 1401(b), as may be modified from time to time, as follows: (i) in the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of such corporation, or fifty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (ii) in the case of a partnership, association, trust or other entity, fifty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.

2.3 Security Assignment. Notwithstanding the terms outlined in Section 2.2 hereof, the Company may, without prior notice to or permission from the Town, pledge, encumber, hypothecate, mortgage, grant a security interest in and collaterally assign this Agreement to any persons or entities providing financing for the Project Facility or any portion thereof ("**Lender**") as security for the repayment of any indebtedness and/or the performance of any obligation whether or not such obligation is related to any indebtedness (a "**Lender's Lien**"). A Lender shall have the absolute right to: (a) assign its Lender's Lien; (b) take possession of and operate the Project Facility or any portion thereof solely in accordance with the Company's rights under this Agreement (and subject to the Company's obligations under this Agreement) and perform any obligations to be performed by the Company or a successor hereunder; or (c) exercise any rights of the Company hereunder. The Town shall cooperate with the Company, its affiliates and any Lender from time to time, including, without limitation, by entering into a consent and assignment or other agreements with such Lender and the Company in connection with any collateral assignment on such terms as may be customary under the circumstances and shall reasonably be required by such Lender, including execution of a consent to the assignment of this Agreement. The Company shall be obligated to reimburse the Town for any reasonable attorneys' fees and expenses associated with processing such collateral assignment or other agreements. In the event this Agreement is assigned to a Lender in connection with its acquisition of the Project Facility through foreclosure of a Lender's Lien or otherwise, the Company shall have no further obligations hereunder, except for any obligations outstanding on the date of the transfer, but only if the Lender has assumed in writing the Company's obligations under this Agreement.

2.4 Notification. No more than sixty (60) days after transferring ownership of the Project Facility or a change in control of the Company, the Company or the successor owner shall provide the Town with written notice of such transfer or change in control.

3. HOST COMMUNITY BENEFIT PAYMENTS

3.1. Host Community Benefit Payment Terms.

(a) Unless otherwise provided for in this Agreement, the Company shall pay to the Town annual "**Elba HCBA Payments**" during the Term (as defined below) in the amounts set forth in *Exhibit B* attached hereto. Unless terminated pursuant to Section 4.1 hereof, the term of this Agreement shall commence on the Effective Date and continue through the payment by the Company of the thirtieth (30th) Elba HCBA Payment hereunder (the "**Term**"). Elba HCBA Payments shall be first due on or before the first January 31 occurring after the date the Project Facility as a whole first commences generating or transmitting electricity for sale, excluding electricity generated or transmitted during the period of on-site test operations and commissioning of the Project Facility, which shall be deemed to be the commercial operation date ("**COD**") indicated in the Company's notice to the New York Independent System Operator ("**NYISO**") for the Project Facility, and thereafter shall be due on or before January 31 of each payment year during the Term. The Company shall not owe Elba HCBA Payments during construction of the Project Facility and prior to COD. The Company shall provide a copy of the COD notice within thirty (30) days after provision of same to the NYISO.

(b) In the event the Company fails to implement or make payments under the Utility Bill Credit Program, the Company shall pay the Town a supplemental amount in addition to Elba HCBA Payments ("**Supplemental Elba HCBA Payments**") equal to the difference between $150,000 and the total amount actually paid for each 12-month period (following COD) during the anticipated 10-year period of the Utility Bill Credit Program, with each supplemental payment, if any, to be made within thirty (30) days after the end of each 12-month period.

3.2 Use of Fund; Public Purposes. The Parties agree and acknowledge that the Elba HCBA Payments and any Supplemental Elba HCBA Payments made hereunder are to provide revenue to the Town to be used, at the sole and absolute discretion of the Town, for public purposes to be undertaken by the Town.

3.3 Professional Costs.

(a) The Company shall reimburse the Town, up to the Fee Cap (as defined below), for reasonable professional costs (the "**Professional Costs**") incurred by the Town for professionals used in accordance with this Agreement relating to compliance with the Section 94-c Permit, over and above any reimbursement to the Town of local agency funds through the Section 94-c process, and to monitoring construction of the Project Facility. Professional Costs shall only

include legal and engineering costs not otherwise covered by local agency funding through the Section 94-c process. The cap for Professional Costs under this Section (each, a "**Fee Cap**") will be a total of $40,000 for the Compliance Filing Review (as defined below) services described in Sections 6.2 hereof and for the Compliance Monitoring (as defined below) services described in Section 6.2 hereof.[1] For avoidance of doubt, the costs incurred by the Town for professionals associated with the activities described in Sections 2.2, 2.3, 5.4(a), and 10.4 hereof are not subject to the Fee Cap.

(b) Upon approval by the Town Board, copies of all invoices for Professional Costs, except for any privileged portions of legal billings, shall be presented by the Town to the Company at the following email address: cidersolar@hecateenergy.com (or such other email address provided by the Company to the Town). If the Company does not object to the invoiced amount within ten (10) business days of the Company's receipt of any such invoice, the Company shall reimburse the Town for all undisputed Professional Costs within thirty (30) days of the Company's receipt of such invoice. In the event the Company notifies the Town (by email or other written notification) of an objection to claimed Professional Costs, the parties will in good faith attempt to resolve the dispute in consultation with the involved professional. In the event a dispute regarding claimed Professional Costs cannot be resolved, the dispute shall be addressed pursuant to the process outlined in Sections 4.3(a) and 4.4(b) hereof. Any costs deemed unreasonable (for example, costs at above-market rates or costs for services not required) following such dispute procedure shall be the responsibility of the Town.

(c) Accrued Legal Expenses. Notwithstanding the terms outlined in Section 3.3(a) hereof, the Company shall also reimburse the Town for up to $7,000[2] in aggregate legal expenses that are (i) related to the negotiations of this Agreement and a road use agreement with the Company, (ii) incurred prior to December 31, 2024, and (iii) not reimbursed by Section 94-c local agency funds after the Town's timely application for such reimbursement.

(d) No fiduciary relationship. The engineers and attorneys retained by the Town with respect to the Project Facility are retained pursuant to separate agreement with the Town and do not have any obligation to or fiduciary relationship with the Company.

(e) Exclusion. Notwithstanding anything in this Agreement to the contrary, the Company shall have no obligation to reimburse the Town for Professional Costs incurred by the Town in connection with or in preparation for any judicial or

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[1] The total Fee Cap for Compliance Filing Review and Compliance Monitoring associated with the Town of Oakfield portion of the Project Facility is $40,000.

[2] The reimbursement limit for legal fees associated with the Town of Oakfield portion of the Project Facility is $8,000.

administrative action, suit, proceeding, review process or hearing regarding the Company, the Project Facility or this Agreement.

3.4 Late Elba HCBA Payments. Any Elba HCBA Payment not paid as of the date due shall be deemed late and a breach of this Agreement without any requirement of notice from the Town. Late fees shall be assessed at a rate of one percent (1%) for the first month or a portion of a month due, and one percent (1%) for each subsequent month or a portion of a month on the original amount outstanding, until the Elba HCBA Payment is paid. Late fees shall be due within fifteen (15) business days of receipt of written notice from the Town. Late payment of late fees shall be subject to the same charges as late payment of Elba HCBA Payments.

4. TERMINATION, BREACHES, AND REMEDIES

4.1 Termination of Agreement by Company. In the event that (a) the Town, in accordance with applicable law, modifies its regulations governing the construction or operation of the Project Facility, to the extent applicable, in a manner which could materially interfere with the construction or operation of the Project Facility, or which could require the Company to materially change its construction plans or activities or its operations to the material detriment of it or the Project Facility, (b) ORES modifies the terms and conditions of the Section 94-c Permit which materially interferes with the construction or operation of the Project Facility or which requires the Company to materially change its construction plans or activities or its operations to the material detriment of it or the Project Facility, or (c) the Project Facility is classified as taxable on the assessment roll of the Town, the Company may terminate this Agreement by written notice to the Town (the date of such notice being the "**Termination Date**"), and after the Termination Date, the Company shall have no further obligations hereunder except for those that explicitly survive this agreement. The Company may elect, in its sole and absolute discretion, to initiate a judicial challenge to the Town action in question, which challenge shall not serve as a waiver of its right to terminate the Agreement. In the event that the Company elects to terminate this Agreement, and either the Town or the Company seeks a judgment in a court of competent jurisdiction to declare the rights of the Parties under this Agreement, any Elba HCBA Payment otherwise due and owing under this Agreement as of the date of Termination, the payment of which is at dispute in the litigation, shall be deposited with the court or an escrow agent mutually agreeable to both Parties, pending the outcome of the litigation.

4.2 Right to Cure. For any claimed monetary Event of Default, the Company shall have the right to cure any such Event of Default and must cure such Event of Default within thirty (30) days of its receipt of a notice of an Event of Default. The Company and the Town shall have the right to cure all non-monetary Events of Default within forty-five days (45) days of receipt of written notice thereof. If such non-monetary Event of Default is not capable of cure within forty-five (45) days and if the Party in breach has commenced a cure and proceeded diligently to effect such cure, then the Party in breach shall have an additional forty-five (45) days to cure unless the non-defaulting Party consents to extend such period. If the Party in breach is the Town and it fails to cure such breach within the time allowed, the Company's payment obligations under this Agreement shall be deposited in escrow with an escrow agent

mutually agreeable to both Parties, with such escrowed amounts paid to the Town within ten (10) days after such breach is cured. If the Company at any time during the Term prior to the occurrence of an Event of Default provides a written request to the Town that notices hereunder be provided to a Lender, any such Lender shall be afforded an additional thirty (30) days to cure a monetary Event of Default and an additional sixty (60) days within which to cure a non-monetary Event of Default on behalf of the Company (each cure period being beyond the time period allowed for the Company to cure).

4.3 Remedies.

(a) Whenever any Event of Default shall have occurred and is continuing with respect to this Agreement, the non-defaulting Party may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the defaulting Party under this Agreement. In addition to any other right or remedy the Town may have at law or in equity upon the occurrence and during the continuation of an Event of Default hereunder, the Town may, immediately and without further notice to the Company, pursue any action to enforce payment or to otherwise recover directly from the Company any amounts so in default. Prior to pursuing any remedy through litigation, the Parties shall engage in mediation in accordance with Section 4.5 of this Agreement.

(b) Notwithstanding anything in this Agreement to the contrary, upon the occurrence and during the continuation of an Event of Default hereunder, the Town shall not have the right to accelerate future Town Fees (as defined below) under this Agreement not yet due and payable as of the date of such exercise of remedies.

4.4 Events of Default.

(a) The following shall constitute an "**Event of Default**":

(i) the failure of the Company to make Elba HCBA Payments within thirty (30) days of the Elba HCBA Payment due date specified in Section 3.1(a) hereof and failure to pay same within fifteen (15) business days after receipt of written notice of said delinquency;

(ii) the failure of the Company to make Supplemental Elba HCBA Payments, if any, within thirty (30) days of the Supplemental Elba HCBA Payment due date specified in Section 3.1(b) hereof and failure to pay same within fifteen (15) business days after receipt of written notice of said delinquency; and

(iii) a failure to perform or observe any other covenants, conditions or agreements on the part of a Party and the continuance thereof for a period of forty-five (45) days after written notice thereof is given by the non-defaulting Party to the defaulting Party.

(b) Escrow of Disputed Fees. If the Company receives notice of an Event of Default for failure to pay Elba HCBA Payments, Supplemental Elba HCBA Payments or Professional Costs (together, "**Town Fees**") due under this Agreement, so long as the Company cures any non-disputed Town Fees within fifteen (15) business days after receipt of the notice of an Event of Default, the Company shall have the right to pay any disputed Town Fees directly into an escrow account, with an escrow agent mutually agreeable to both Parties, to be distributed to the successful party: (i) by mutual agreement of parties at the end of mediation efforts; or (ii) at the conclusion of litigation, including appeals, in accordance with the order of a court of competent jurisdiction. The Town Fees due but unpaid shall be the exclusive and sole remedy of the Parties under an Event of Default provided the Company has paid any disputed Town Fees into such escrow account.

(c) Lender Right to Cure. Prior to the exercise of any remedy by the Town hereunder following an Event of Default, any Lender shall have an absolute right to cure such Event of Default during the time period allowed for curing same. If the Company at any time during the Term prior to the occurrence of an Event of Default provides a written request to the Town that notices hereunder be provided to a Lender, any such Lender shall be afforded the timeframes referenced in Section 4.2 hereof within which to cure an Event of Default on behalf of the Company.

4.5 Mediation: If a dispute arises out of or relates to this Agreement or its breach (including an Event of Default), the Parties shall direct their representatives to endeavor to settle the dispute through direct discussions. If the dispute cannot be resolved through direct discussions, the Parties shall participate in formal mediation, including the engagement of a mutually agreed-upon mediator with offices located in either the Buffalo or Rochester, New York metropolitan areas, and shall utilize best efforts to commence such mediation within sixty (60) days of their failure to resolve the dispute through direct discussions. Any Party may terminate the mediation at any time after the first session, but the decision to terminate must be delivered in writing to the other Party's representative and the mediator. As between the Company and the Town, the Company shall be responsible for giving any Lenders notice of any mediation or other proceeding by or between the Parties hereto, and the Lenders shall have the right to intervene therein and be made a party to any such mediation or other proceeding.

5. DECOMMISSIONING

5.1 Compliance with the approved Final Decommissioning and Site Restoration Plan (the **"Decommissioning Plan"**) is a condition of the Section 94-c Permit. The Company's responsibility for decommissioning, demolition and removal of the Project Facility and site restoration shall not extend beyond the requirements of the Decommissioning Plan. The Parties further acknowledge that one or more photovoltaic panels may, from time to time, need to be retired and removed prior to the end of the useful life of the Project Facility. The Company shall have no obligation to replace retired photovoltaic panels. A copy of the Decommissioning

Plan, once finalized as a Compliance Filing (as defined below), shall attached hereto as *Exhibit C*.

5.2 Within the timeframe required in the Section 94-c Permit, the Company shall establish an irrevocable letter of credit or other financial assurance approved by ORES or otherwise permitted by the Section 94-c Permit to be expressly held by and for the sole benefit of the Town for the implementation of the Decommissioning Plan for the portion of the Project Facility located within the Town (the **"Decommissioning Security"**). The amount of the Decommissioning Security (the **"Decommissioning Amount"**) shall be mutually agreed upon by the Parties, or as determined by ORES if not mutually agreed upon, and shall be equal to the net estimate for implementing the Decommissioning Plan for the portion of the Project Facility located within the Town, and calculated utilizing the methodology set forth in the Section 94-c Permit, as such permit may be modified by ORES pursuant to the 94-c regulations. The Decommissioning Security established by this Agreement shall not be subject to disclaimer or rejection in a bankruptcy proceeding.

5.3 Decommissioning Order and Use of Decommissioning Security.

(a) If the Project Facility is abandoned or ceases to produce electricity for sale on a continuous basis for a twelve (12) month period, the Town may require that the Company demonstrate its plan for returning the Project Facility to operation, and the Company must provide such demonstration in writing within sixty (60) days of request from the Town. If the Company cannot demonstrate it has, or is, making good faith efforts to return the Project Facility to operation, the Town may issue an order to implement the Decommissioning Plan for the Project Facility (a "**Decommissioning Order**") and shall serve written notice of such order on the Company. The Company shall provide notice to Project stakeholders of its intent to initiate activities under the Decommissioning Plan within 150 days of its receipt of written notice of the Decommissioning Order and shall implement the Decommissioning Plan within twelve months of the Decommissioning Order, without any further action by the Town.

(b) Failure to Perform Decommissioning. If the Company fails to fully implement the Decommissioning Plan for the Project Facility within the required timeframe, the Town may, at its sole discretion, implement the Decommissioning Plan and may recover all of the expenses incurred for such activities from the Company, or, at the Town's sole discretion, from the Decommissioning Security.

(c) Access Rights. In the event it is necessary for the Town to implement the Decommissioning Plan, the Company hereby acknowledges and agrees that it will use its commercially reasonable efforts to ensure the Town has the necessary access rights to implement the Decommissioning Plan, including granting the Town the right to use necessary Company easements and access rights. To the extent that lease terms allow, the Company, within six months of the date of this Agreement, will assign access rights to the Town for the purpose of undertaking the Decommissioning Plan in the event of the Company's failure

to do so. However, to the extent that the Town's rights shall be concurrent with, and derived from Company rights set forth in various agreements, such rights shall be subject to the terms of such agreements, granting the Company such easement or access rights. The Company will not allow its access rights or easements to any particular Project Facility component to expire until such facility component has been decommissioned.

5.4 Re-Calculation of Decommissioning Amount.

(a) Consistent with the terms of the Section 94-c Permit, the Company, with review by the Town engineer, shall update the Decommissioning Amount by specifying changes to the estimated cost of implementing the Decommissioning Plan and attempt to mutually agree upon the Decommissioning Amount every five (5) years, with the first update occurring five years after initial posting of the Decommissioning Security. If the Decommissioning Amount decreases, the Company may provide replacement Decommissioning Security in such lower amount, and if the Decommissioning Amount increases, then the Company shall provide Decommissioning Security in such higher amount. The Company shall be obligated to reimburse the Town for its reasonable professional costs and expenses associated with Decommissioning Compliance, as defined in Section 6.2 hereof.

(b) The Company retains its right to seek review by ORES of the determination of the Decommissioning Amount if the parties cannot agreement on the final amount. The Company shall maintain the existing Decommissioning Security during the pendency of any such review of the amount of the Decommissioning Security by ORES subject to the two percent (2%) annual escalator provided for in Section 6(c)(1)(a) of the Section 94-c Permit.

5.5 The provisions of this Section 5 shall survive the Term.

6. COMPLIANCE WITH LAWS AND PERMITS

6.1 Compliance with Laws. The Company agrees that the Project Facility shall be constructed and operated in compliance with all applicable State and Federal laws, rules, and regulations, and in compliance with all permits and other authorizations issued by State agencies or Federal agencies with respect to the Project Facility site, including but not limited to the Section 94-c Permit. The Company agrees that the portion of the Project Facility located in the Town shall be constructed and operated in compliance with the Town's substantive local laws applicable to the Project Facility, which have not been waived by ORES, as required by the terms of the Section 94-c Permit and Section 94-c.

6.2 Compliance Monitor. The Town will engage the services of a qualified independent engineer or engineering firm ("**Compliance Monitor**") who shall be responsible for: (a) review and comment on the Company's Compliance Filings (as defined below) referenced in Section 7 hereof for compliance with the Section 94-c Permit, including Town Code requirements that have not been waived by ORES (the "**Compliance Filing Review**");

(b) ensuring compliance with this Agreement (the **"Compliance Monitoring"**); and (c) ensuring compliance with the Decommissioning Plan ("**Decommissioning Compliance**") including review of the 5-year reassessment of the Decommissioning Amount referenced in Section 5.4 hereof and confirmation that the Decommissioning Plan has been fully implemented when required as provided in Section 5 hereof. During construction of the Project Facility, the Compliance Monitor will serve as the Town's liaison with ORES and the environmental monitor(s) retained by the Company in accordance with the Section 94-c Permit and will perform the monitoring tasks listed in *Exhibit D* attached hereto. In the event the Compliance Monitor believes a violation of the Section 94-c Permit has occurred, the Town shall provide written notification of the claimed violation to the Company and the Company shall have sixty (60) days following receipt of such notice to address the claimed violation.

7. COMPLIANCE FILINGS

7.1 Compliance Filings. The Company shall file with ORES those certain final plans and pre-construction compliance filings required by Section 94-c Permit Conditions 6 and 7.1 (each a "**Compliance Filing**"), the filing of which is subject to any modifications to the Section 94-c Permit approved by ORES.

7.2 Final Plans. To the extent not otherwise publicly available, the Company shall provide the Town with copies of the final approved Quality Assurance and Control Plan, Construction Operations Plan, Facility Maintenance and Management Plan, Vegetation Management Plan, Stormwater Pollution Prevention Plan (SWPPP), Spill Prevention, Control and Countermeasure Plan (SPCC), Traffic Control Plan, Environmental Monitoring Plan, Facility Communications Plan and Complaint Management Plan.

8. COMPLAINT RESOLUTION PROCESS

8.1 The Company shall submit to ORES a final Complaint Management Plan as a Compliance Filing, the final version of which will be appended to this agreement as *Exhibit E*.

8.2 The Complaint Management Plan will, at a minimum:

(a) Define a Company point of contact for complaints during construction and operations, and describe how this information will be updated and disseminated when necessary;

(b) Set an initial response timeframe;

(c) Require appropriate documentation of the nature of the complaint, and regular reporting of complaints and the resolution thereof, redacted to maintain confidentiality, to ORES and the Town; and

(d) Provide a pathway for reconciliation of complaints.

9. FIRE PROTECTION CONTROL AND SAFETY

9.1 Annual Meetings with Fire Chief. The Company will meet, on at least an annual basis, with the fire chief of the fire districts where the Project Facility is located in the Town, to review current access, training needs, and other emergency coordination related issues. The initial meeting with the fire districts will take place within seventy-five (75) days of the Effective Date. The Company shall invite appropriate County representatives to these meetings as well.

9.2 Safety Response Plan. Prior to the commencement of construction of the Project Facility, the Company shall provide a copy of the Project's Safety Response Plan to the Genesee County Emergency Management, the fire district(s) where the Project Facility is located in the Town, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The Company is responsible for ensuring any updates to the Project's Safety Response Plan are provided to the above holders of the Project's Safety Response Plan.

9.3 Emergency Response Training. Initial and annual site-specific training on the Project's Safety Response Plan will be provided by the Company for the Code Enforcement Officer and emergency responders of the Elba Fire Department and the Genesee County Office of Emergency Response, with expenses for such training covered by the Company.

9.4 The provisions of this Section 9 shall survive the Term.

10. LIABILITY COVERAGE AND INDEMNIFICATION

10.1 Insurance. The Company will maintain insurance for claims arising out of injury to persons or property, relative to either sudden and accidental occurrences or non-sudden and accidental occurrences, resulting from operation of the Project Facility. The Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type; minimum Commercial General Liability coverage limits of $10,000,000 per occurrence and in the aggregate, limits can be achieved with a combination of primary and excess policies. The Company will provide proof of such insurance in the form of a certificate of insurance, or proof of self-insurance annually to the Town.

10.2 Indemnification of Town.

(a) Indemnification. Except to the extent caused by negligence, illegal or willful misconducts of the Town or its officers, agents, employees, or subcontractors, the Company agrees that it will indemnify and hold harmless the Town and its officers and employees from and against any and all liability, actions, damages, claims, demands, judgments, losses, costs, expenses and fees, including reasonable attorneys' fees (collectively "**Losses**"), including losses for injury or death to persons or for loss or damage to property, and will defend the Town and its officers and employees in any court action, administrative proceeding or appeal in connection with such Losses, whether or not finally adjudicated and

including any settlement thereof, provided such losses result from or arise out of any act, omission, negligence or other fault of the Company or its officers, sub-contractors, agents or employees; and further provided such losses arise out of or occur in connection with the construction and operation of the Project. In the event a claim, action, demand, suit or proceeding is instituted against the Town by any third party, pursuant to which the Town is entitled to be indemnified hereunder, the Town shall immediately notify the Company in writing and contemporaneously provide the Company with a copy of the written documents presented by such third party. The provisions of this Section 10.2 shall survive the Term.

(b) Hold Harmless and Defense Against Actions Concerning the Project Facility. Without limiting the foregoing, in the event a claim, action, demand, suit or proceeding is instituted against the Town by any third party challenging the exercise of the Town's municipal powers or obligations in connection with the Project Facility pursuant to which the Town is entitled to be indemnified hereunder, the Town shall immediately notify the Company in writing and contemporaneously provide the Company with a copy of such written documents presented by such third party.

(c) Right to Control Defense. The Company will have the right to control the defense of any such actions or claims and will have the right to settle such actions or claims on such terms as it may deem reasonable so long as such defense and/or settlement are approved by the Town and releases or indemnifies the Town. The Town shall be entitled to its own counsel in defense of such action.

10.3 Indemnification of the Company. The Town shall indemnify, hold harmless and defend the Company and its owners, affiliates, officers, employees, subcontractors and agents from and against any and all damages, penalties, costs, claims, demands, suits, judgments and expenses, including, without limitation, reasonable attorney's fees, caused by, arising out of or incurred as a result of: (a) the negligent acts or omissions or willful misconduct of the Town, (b) material breach of any obligation, covenant or undertaking of the Town contained herein, or (c) any misrepresentation or breach of warranty on the part of the Town pursuant to this Agreement, except to the extent caused by the negligence, illegal or willful misconduct of the Company or its officers, directors, agents, employees or subcontractors. The provisions of this Section 10.3 shall survive the Term.

10.4 Cooperation in Defense Against Litigation. Should any third party bring a Federal or State suit or proceeding, including a proceeding pursuant to Article 78 of the New York Civil Practice Law and Rules regarding the Project or this Agreement, the Company and the Town shall cooperate in the defense of said action. The Town shall have the right to select its counsel but the Company shall have the right to control the defense against such action pursuant to Section 10.2(c) hereof. The Company agrees to fund reasonable attorney's fees and expert's fees and costs incurred by the Town in defense of any such action unless the action is brought by the Company.

10.5 Indirect and Consequential Damages. Notwithstanding anything to the contrary elsewhere in this Agreement, no Party shall be liable to any other Party for indirect or consequential damages, including, without limitation, loss of revenue, loss of profit, cost of capital or loss of business reputation or opportunity whether such liability arises out of contract, tort (including negligence), strict liability or otherwise. The provisions of this Section 10.5 shall survive the Term.

11. MISCELLANEOUS PROVISIONS

11.1 Amendment. This Agreement may not be amended, changed, modified or altered except in writing executed by the Parties.

11.2 Applicable Law. This Agreement shall be governed exclusively by the applicable laws of the State without regard or reference to its conflicts of laws principles. Venue for any disputes shall be the federal or state courts of competent jurisdiction located in Genesee County, New York.

11.3 No Waiver. In the event any agreement herein is breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

11.4 Binding Effect. This Agreement shall inure to and be binding upon the Parties and their respective successors and assigns.

11.5 Complete Agreement. Unless supplemented or otherwise amended in writing by the Company and the Town in accordance with the laws of the State, this Agreement constitutes the Parties' entire agreement with respect to the subject set forth herein and no other agreements, written or unwritten, implied or expressed, will be deemed effective.

11.6 Severability. The inapplicability or unenforceability of any of the provisions of this Agreement shall not limit or impair the operation, enforcement, or validity of any other provision of this Agreement.

11.7 Local Jobs. When seeking full time employees for operation and maintenance of the Project, the Company shall give fair consideration to qualified candidates from the local community.

11.8 Notices. All notices, requests, demands and other communication hereunder shall be in writing and shall be deemed to have been duly provided/served (i) when delivered by messenger or by reputable national overnight courier service, or (ii) three (3) business days after mailing when mailed by certified or registered mail (return receipt requested), with postage prepaid and addressed to the parties at their respective addresses shown below or at such other address as any Party may specify by written notice to the other Party:

If to the Company:

Hecate Energy Cider Solar LLC
621 W. Randolph Street
Chicago, Illinois 60661
Attention: General Counsel

With a Copy to:

Barclay Damon LLP
125 East Jefferson Street
Syracuse, New York 13202
Attention: Matthew S. Moses

If to the Town:

Town of Elba
Attention: Town Supervisor
7133 Oak Orchard Road
Elba, New York 14058

With a Copy to:

John Whiting
Town Attorney
Whiting Law Firm
31 W. Main Street
P.O. Box 100
LeRoy, New York 14482

Either Party may change the names and or address to which, or the manner by which, the notice is to be addressed by giving the other Party notice in the manner set forth herein. A copy of all notices of an Event of Default to the Company hereunder shall also be served on any Lender identified pursuant to Section 4.4(c) hereof, and no such notice or other communication to the Company shall be deemed received unless a copy is so served upon any such Lender in the manner provided herein for the giving of notice.

11.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same instrument. This Agreement, and any amendments hereto or, to the extent signed and delivered by means of a facsimile machine or electronic transmission in portable document format (PDF), shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party shall raise the use of a facsimile machine or electronic transmission in PDF to deliver a signature or the fact that any signature was transmitted or

communicated through such means as a defense to the formation of an agreement and each party forever waives any such defense.

11.10 Further Assurances. From time to time and at any time after the effective date of this Agreement, each of the Parties, at its own expense (unless otherwise provided in this Agreement), shall execute, acknowledge and deliver any further instruments, documents or other assurances reasonably requested by any other Party, and shall take any other action consistent with the terms of this Agreement that may reasonably be requested by another Party to evidence or carry other the intent of or to implement this Agreement.

[remainder of this page intentionally blank]

IN WITNESS THEREOF, the Parties have executed this Host Community Benefit Agreement as of the date first written above.

TOWN OF ELBA	**HECATE ENERGY CIDER SOLAR LLC**
By: Donna Hynes Donna Hynes Town Supervisor	By: [signature] Chris Bullinger Authorized Representative
Date: 6/14/24	Date: 6/27/24

25877634.7

Exhibit A

HCBA Resolution

RESOLUTION NO. 32-2022:
Councilman Coughlin offered the following:

AUTHORIZATION FOR TOWN SUPERVISOR TO EXECUTE CIDER SOLAR PILOT AND HOST AGREEMENTS

WHEREAS, on July 25, 2022, the Hecate Energy Cider Solar LLC ("Hecate") was issued a Siting Permit for a Major Renewable Energy Facility (the "Permit") by the State of New York Office of Renewable Energy Siting ("ORES"), pursuant to Executive Law Section 94-c ("Section 94-c"), for a 500-megawatt solar energy facility to be located in the Towns of Elba and Oakfield (the "Cider Solar Project"); and

WHEREAS, Section 94-c and the Permit require that Hecate provide host community benefits for the Cider Solar Project, such as payment in lieu of tax ("PILOT") payments pursuant to a PILOT agreement, other payments pursuant to host community agreements ("Host Agreements"), and utility bill reductions; and

WHEREAS, after extensive negotiations facilitated by the Genesee County Economic Development Center ("GCEDC"), GCEDC, the host taxing jurisdictions, including the Towns of Elba and Oakfield, Genesee County and the host school districts, and Hecate have reached an agreement in principle on the financial terms for the PILOT Agreement and Host Agreements for the Cider Solar Project, which agreement, entitled Cider Solar Project Financial Term Sheet ("Term Sheet"), is annexed hereto as Exhibit A: and

WHEREAS, the non-binding Term Sheet would form the basis for the financial terms of a 30-year PILOT agreement between Hecate and GCEDC ("PILOT Agreement") and Host Agreement between Hecate and the Town of Elba ("Elba Host Agreement") for the Cider Solar Project, which would memorialize and make binding the financial benefits to the Town of Elba from the Cider Solar Project, as summarized in Exhibit A, Exhibit C, and Exhibit E to the Term Sheet; and

WHEREAS, at its November 10, 2022 meeting, the Board introduced the Term Sheet for review to consider granting the Town Supervisor the authority to execute the PILOT Agreement and Elba Host Agreement on behalf of the Town of Elba so long as the PILOT Agreement and Elba Host Agreement are substantially consistent with the terms of the Term Sheet; and

WHEREAS, the Board has had an opportunity to review the terms of the Term Sheet and understands its contents; and

WHEREAS, a public hearing on the financial terms proposed in the Term Sheet was held by the GCEDC on November 28 at 5:00 PM at the Elba Firemen's Recreation Hall.

NOW THEREFORE BE IT RESOLVED, that the Board approves the terms of the Term Sheet affecting, relating to or benefiting the Town; and

IT IS FURTHER RESOLVED, that Board finds that entry into the PILOT Agreement by the GCEDC and the Elba Host Agreement by the Town, in terms substantially consistent with those presented in the Term Sheet, are in the best interests of the Town of Elba; and

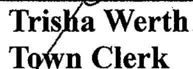
IT IS FURTHER RESOLVED, that the Board authorizes the Town Supervisor to enter into the PILOT Agreement and Elba Host Agreement on behalf of the Town of Elba, so long as the PILOT Agreement and Elba Host Agreement are substantially consistent with the terms of the Term Sheet, and execute those documents necessary to memorialize such agreements, the execution thereof by the Town Supervisor to constitute conclusive evidence of such consistency and approval.

Second by: Supervisor Hynes
Ayes: Coughlin, Hynes, Marshall
APPROVED by unanimous vote (3-0)

CERTIFICATION

I, Trisha Werth, Town Clerk of the Town of Elba, County of Genesee and State of New York, DO HEREBY CERTIFY that I have compared the aforementioned resolution duly adopted by the Town Board of the Town of Elba, on the 8th day of December, 2022 with the original now on file in my office, and the same is a correct and true copy of said Resolution and of the whole thereof.

Dated: December 12, 2022



Trisha Werth
Town Clerk

{SEAL}

Exhibit B

Elba HCBA Payment Schedule

Year	Elba HCBA Payment
1	$531,524
2	$528,598
3	$525,687
4	$522,789
5	$519,907
6	$517,039
7	$514,185
8	$511,346
9	$508,520
10	$505,710
11	$556,607
12	$553,824
13	$551,055
14	$548,300
15	$545,558
16	$542,830
17	$540,116
18	$537,416
19	$534,728
20	$532,055
21	$529,394
22	$526,748
23	$524,114
24	$521,493
25	$518,886
26	$516,291
27	$513,709
28	$511,141
29	$508,586
30	$506,043
Total	$15,804,199

Exhibit C

Final Decommissioning Plan
(To be appended once approved as Compliance Filing)

Exhibit D

Elba Compliance Monitoring Tasks

Construction Compliance Monitoring Tasks:

- Serve as "Point of Contact" with the Company to facilitate communications between the Company and the Town.
- Attendance at regular Project progress meetings as needed or requested by the Company or Town.
- Attendance at regular Project update meetings with the Town to provide Project status updates. (Regularity of meetings TBD by the Town with increased updates during active construction periods).
- Review of the Company's biweekly construction status reports, monthly construction inspection reports, and reports from the environmental monitor (provided upon request).
- Follow up with the Company's environmental monitor regarding environmental and agricultural action items and status of action item completion.
- Discuss coordination efforts with the Company's environmental monitor related to agricultural properties and property access requirements, land restoration and construction requirements detailed in the NYSDAM "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands", and general coordination with landowners/agricultural operators and the Town during construction.
- Attending Environmental Site and SWPPP Inspections on a regular, TBD basis (when applicable).

Exhibit E

Complaint Resolution Plan
(To be appended once approved as Compliance Filing)