

AGREEMENT FOR PAYMENT IN LIEU
OF REAL ESTATE TAXES

This is an agreement dated as of February 1, 2019, between the WYOMING COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency") and TEXAS BRINE NEW YORK, LLC (the "Company") for the making by the Company of certain payments in lieu of real estate taxes, as required by the Agency Lease Agreement between the parties, entered into as of February 1, 2019, by which the Agency has leased certain premises to the Company (the "Lease Agreement"). The Agency and the Company each accept and agree to the following statements or terms. This Agreement will be referred to herein as the "PILOT Agreement."

Section 1. Definitions. Unless otherwise defined herein, the terms used in this PILOT Agreement shall have the meanings specified in the Lease Agreement.

Section 2. Agency Tax Exemption and Term. Subject to the completion and filing of an Application for Tax Exemption by the Taxable Status Date and the approval of the Application for Tax Exemption by the Assessor, the Project shall be exempt from Real Estate Taxes commencing with the 2019 - 2020 tax fiscal year of the School District (as defined herein) and the 2020 tax fiscal year of the Town and County (each as defined herein). The Company shall provide the Agency with all information required to complete the Application for Tax Exemption and shall provide such additional information and take such actions as are required by the Assessor in order to process and approve the Application. In the event the exemption from Real Estate Taxes is denied for any reason, the Company agrees to pay all Real Estate Taxes levied upon the Project as they become due. To the extent permitted by law, the Company shall have the right to protest such denial subject, however, to the conditions set forth in Section 8.1 of the Lease Agreement. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real

Estate Taxes. This PILOT Agreement shall have a term of ten (10) years such that this PILOT Agreement shall terminate on December 31, 2029, unless otherwise terminated as set forth herein.

Section 3. Obligation of the Company to Make Payments in Lieu of Taxes. Subject to the approval of the Application for Tax Exemption, the Agency shall require and the Company agrees to make payments in lieu of real estate taxes to the appropriate taxing authorities pursuant to the terms of this PILOT Agreement.

Section 4. Taxing Authorities and Amounts.

(1) Until the commencement of the tax fiscal years set forth in subparagraph (a) hereof, the Company shall continue to pay all appropriate taxing authorities all taxes due as if the Agency did not have an interest in the Project. As set forth below, the total payments in lieu of taxes required under this PILOT Agreement are allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the Project not been tax exempt due to the status of the Agency. Thereafter, the Company shall make payments in lieu of taxes to all appropriate taxing authorities on the lands and buildings constituting the Project, as more particularly described on Schedule "A" attached hereto and made a part hereof, in accordance with this section and within the period that such taxing authorities allow payment of taxes in any given fiscal tax year. Payments in lieu of general levy real estate taxes to the County of Wyoming (the "County") for each of the tax fiscal years 2020 through 2029, to the Town of Middlebury (the "Town") for each of the fiscal years 2020 through 2029 and to the Wyoming Central School District (the "School District") for each of the fiscal years 2019 - 2020 through 2028 - 2029 or until termination of the Lease Agreement, whichever occurs first, shall be in an amount equal to the product of:

- (a) A fixed based value, as is set forth in Schedule "B" attached; and
- (b) The affected taxing jurisdictions' annual real property tax rates for the applicable

tax fiscal year.

Payments for each County and Town fiscal year must be made by January 31 of that year and payments for each School District tax fiscal year must be made by September 30 of that year (or such later date as may be permitted by the tax jurisdiction) or such payment shall be considered delinquent.

(c) In addition to the foregoing, the Company shall pay all special assessments and charges that are levied against the Project as if the Agency did not have an interest in the Project.

(2) The payments required under Paragraph (1) of this section shall in no event be more than would be otherwise payable as taxes if the Agency did not have an interest in the Project.

(3) Each of the foregoing payments shall be made on or before the date specified herein.

(4) Upon the termination of the periods shown in Paragraph (1) of this section, for the respective taxing authorities, the Company shall make full payment in lieu of all taxes on the Project as if the Agency did not have an interest in the Project.

(5) The parties assume that the completed Project will first appear on the tax rolls as of the taxable status date of March 1, 2019. In the event that this assumption is incorrect, then the dates expressed in Paragraph 4(1) will be adjusted accordingly.

(6) In addition to the foregoing, the Company shall pay all special district charges, special assessments, and special *ad valorem* charges (including but not limited to any fire district charges or "curb charges") and pure water charges and sewer charges that are levied against the Project are to be paid in full in accordance with normal billing practices as if the Agency did not have an interest in the Project.

Section 5. Proration. During the last year of the term of the Lease Agreement the Company may prorate any of its payments in lieu of taxes on the basis of the actual period during which the Agency has an interest in the Project so that there shall exist no period of time for which the Company is obliged to

make payments in lieu of taxes in addition to the actual tax payments to which the Project is subject, under current law, at the time the Agency's interest in the Project is terminated.

Section 6. Obligations and Rights of the Company Relating to Tax Assessments and Levies.

(1) Subject to the provisions of the Lease Agreement, the Company in cooperation with the Agency shall:

(a) cause the appropriate real estate tax assessment and tax levy officers to assess the Project and apply tax rates to the respective assessments as if the Agency did not have an interest in the Project.

(b) cause the appropriate real estate tax officers to submit to the Company, when the respective types of taxes are levied on privately owned property, statements specifying the respective amounts and due dates of taxes involved in this PILOT Agreement which the appropriate taxing authorities would receive if the Agency did not have an interest in such property; and

(c) file any accounts or tax returns required with the appropriate officer or officers.

(2) The payments the Company is required to make under this PILOT Agreement are subject to the Company's rights, hereby granted, (a) to obtain reductions in the assessed valuation of the Project or to obtain exemptions and discounts, if any, which are afforded to the Company as a private owner of the Project (excluding, however, any, discount or reduction afforded by Section 485-b of the New York Real Property Tax Law), and (b) to seek to obtain refunds of any such payments made including payments made pursuant to this PILOT Agreement. The Agency shall join in any procedure for obtaining relief under this paragraph to the extent that the Agency's consent is required for the Company to undertake such procedure; provided, however, that the Company shall continue to make the payments in lieu of taxes required by this PILOT Agreement adjusted for any reduction as provided above so long as the Lease Agreement shall remain in effect.

Section 7. Default in Payment in Lieu of Taxes. In the event the Company fails to make any such payments in lieu of taxes when due, whether for a full tax fiscal year or years or for a portion of a tax fiscal year pursuant to Sections 4 or 5 hereof, the amount or amounts so in default shall continue as an obligation of the Company until fully paid. In addition, if any payment is not received by the affected taxing jurisdiction or jurisdictions when due, the Company shall pay (i) a late payment penalty equal to five (5%) percent of the delinquent amount, and (ii) for each month, or part thereof, that the payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, equal to one (1%) percent per month until the payment is made. The Agency and the Company hereby acknowledge the right of the Town, the County and the School District to recover directly from the Company any amounts so in default pursuant to General Municipal Law §874(6). The Company shall promptly notify the Agency of any action brought, or other measure taken, by a taxing authority to recover such amounts. It is understood that the right of any taxing authority herein acknowledged is in addition to, and shall not impair, the Agency's own rights arising from a breach of this PILOT Agreement. Should the Agency or the Town, the County or the School District commence any action to recover directly from the Company any amounts so in default, such parties shall be entitled to recover from the Company the amount due, the late payment penalty, interest, expenses, costs and disbursements, together with the reasonable attorneys' fees necessary to prosecute such action or proceeding.

Section 8. Effect of Fulfillment of the Requirement. Once having paid the amounts required by this PILOT Agreement, the Company shall not be required to pay any real estate taxes for which payments in lieu of taxes have been made.

Section 9. Effect of Events of Default.

(1) The following shall constitute "Event(s) of Default" hereunder:

(a) The Company fails to make any payments in lieu of taxes required hereunder, or

fails to perform any other obligation imposed on the Company hereunder.

(b) The occurrence and continuance of any other Event of Default as defined in the Lease Agreement.

(2) If the Project is not being used in accordance with the Act or the Lease Agreement, or if an Event of Default occurs, the Company shall make payments in lieu of taxes on the Project in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project. The applicable tax assessment and tax levy rates shall be those in effect in the records of the appropriate taxing authorities.

(3) The period for the payments required by Paragraph (2) of this section shall commence on the date the Agency determines (a) that the use of the Project under the Act or the Lease Agreement is not being complied with, or (b) that an Event of Default has occurred and is continuing.

(4) Notwithstanding anything to the contrary contained in this PILOT Agreement, the occurrence of an Event of Default shall not require the Company to make any payment not yet due and payable under the terms hereof.

Section 10. Survival of the Company's Obligations. The obligations of the Company under this PILOT Agreement shall survive the termination or expiration of the Lease Agreement, for whatever reason terminated or expired.

Section 11. Amendments. This PILOT Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

Section 12. Counterparts. This PILOT 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.

Section 13. Applicable Law. This PILOT Agreement shall be governed by and construed in

accordance with the laws of the State of New York.

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IN WITNESS WHEREOF, the Agency and the Company have caused this PILOT Agreement to be executed by their duly authorized officers, all as of the date first above written.

WYOMING COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: James Pierce
James Pierce
Executive Director

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

On the 6th day of February, in the year 2019 before me, the undersigned, personally appeared James Pierce, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

Robin L Marschilok
Notary Public

Robin L. Marschilok
Notary Public, State of New York
Steuben County # MAG230381
Commission Expires 11-22-22

SCHEDULE "A"

PROPERTY DESCRIPTION

ALL THOSE TRACTS OR PARCELS OF LAND SITUATE IN THE TOWN OF MIDDLEBURY, COUNTY OF WYOMING AND STATE OF NEW YORK, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Address	SBL#
Saltvale VL	36.-1-28
1346 Saltvale Rd	36.-1-29.12
Saltvale VL	49.-1-26.12
Cowie Rd VL	49.-1-26.2
Saltvale Rd VL	49.-1-27
Dillion Rd VL	49.-1-42.11
LaGrange Rd VL	49.-1-44
Saltvale Rd VL	49.-1-46.1
Saltvale Rd VL	49.-1-47.1
1455 Saltvale Rd	49.-1-47.2
Saltvale Rd VL	49.-1-50
Saltvale Rd VL	49.-1-51.1
1625 Saltvale Rd	49.-1-52
Canaway Rd VL	49.-1-55.112
Canaway Rd VL	49.-1-55.113
Saltvale Rd VL	49.-1-69
Canaway Rd VL	62.-1-6.21
Brine Pipeline	638.089-9999-844.820/1
4" & 8" Distr piping	86.-1
Gravel Roads	86.-2
12" stl return line 50% brine	86.-3
Elec Control Bldg	86.-4
Wiring	86.-5
Brine Wells	86.-6
Water Wells	86.-8

SCHEDULE B

<u>County</u>	<u>Town</u>	<u>School</u>	<u>Fixed Base Value</u>
2020	2020	2019-2020	\$7,000,000.00
2021	2021	2020-2021	\$7,175,000.00
2022	2022	2021-2022	\$7,354,375.00
2023	2023	2022-2023	\$7,538,234.30
2024	2024	2023-2024	\$7,726,690.10
2025	2025	2024-2025	\$7,919,857.30
2026	2026	2025-2026	\$8,117,853.70
2027	2027	2026-2027	\$8,320,800.00
2028	2028	2027-2028	\$8,528,820.00
2029	2029	2028-2029	\$8,742,040.50