

AGREEMENT FOR PAYMENT IN LIEU  
OF REAL ESTATE TAXES

THIS IS AN AGREEMENT dated as of February 28, 2022 between the WYOMING COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency") and ORANGEVILLE ENERGY STORAGE 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 28, 2022, 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.

(a) Subject to the completion and filing of an Application for Tax Exemption by the taxable status date, March 1, 2022 (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 2022 - 2023 tax fiscal year of the School District and the 2023 tax fiscal year of the Town and County. 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 twenty (20) years such that this PILOT Agreement shall terminate on February 28, 2042, unless otherwise terminated as set forth herein.

(b) It is understood and agreed that the real property tax exemption conferred upon the Project by virtue of the Agency's involvement applies only to the approximately 20+/-megawatt (MW) AC battery energy storage facility to be constructed on the Premises (the "Energy Storage Facility"). The real property tax exemption does not apply to exempt the general levy real property taxes on the real property or the improvements that existed on the real property prior to the effective date of the Lease Agreement and this PILOT Agreement (the "Land Taxes"), which Land Taxes shall continue to be paid by the fee/title owner of the Premises to each respective taxing jurisdiction as and when due.

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 (the "PILOT Payments") to the appropriate

taxing authorities pursuant to the terms of this PILOT Agreement.

Section 4. Taxing Authorities and Amounts.

(a) Until the commencement of the tax fiscal years set forth in Section 4(a)(i) 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 PILOT Payments 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 PILOT Payments to all appropriate taxing authorities on the Energy Storage Facility constituting the Project (a portion of SBL 83-1-6.3), as more particularly described on Schedule A attached hereto and made a part hereof, in accordance with this Section.

(i) PILOT Payments to the County of Wyoming (the "County") for each of the tax fiscal years 2023 through 2042, to the Town of Orangeville (the "Town") for each of the tax fiscal years 2023 through 2042 and to the Warsaw Central School District (the "School District") for each of the tax fiscal years 2022 - 2023 through 2041 - 2042 or until termination of the Lease Agreement, whichever occurs first, shall be in an amount equal to the sum of multiplying the solar production nameplate capacity of the Project measured in megawatts ("MWs") by a fixed amount of \$1,475.00, subject to an annual increase equal to two and ½ (2.5%) percent, as more particularly set forth in Schedule B attached hereto and made a part hereof.

(ii) PILOT Payments shall be made to the Agency at 36 Center Street, Suite D, Warsaw, New York 14569, or such other place as may be designated by the Agency from time to time, no later than February 1 of each year in which this Agreement is in effect. Commencing on February 1, 2023 each PILOT Payment made by the Company shall be accompanied by a written statement from the Company setting forth the manner in which the payment was calculated.

(iii) In addition to the foregoing, to the extent that special district charges, special assessments and special *ad valorem* levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges are levied against the Project, they will be paid in full as if the Agency did not have an interest in the Project.

(b) The PILOT Payments required under Paragraph 4(a)(i) 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.

(c) Each of the foregoing payments described in this Section shall be made on or before the date specified herein.

(d) Upon the termination of the periods shown in Paragraph 4(a)(i) 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.

(e) The parties assume that the completed Project will be identified as exempt on the tax rolls by the Taxable Status Date of March 1, 2022. In the event that this assumption is incorrect, then the

dates expressed in Paragraph 4(a)(i) will be adjusted accordingly.

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Section 5. Valuation of Future Additions to the Energy Storage Facility.

(a) The PILOT Payments provided for in this PILOT Agreement shall not increase or decrease based on (i) the construction cost of the Energy Storage Facility, (ii) any modifications, repairs, additions or deletions thereto, (iii) any modification of the real property interests comprising the Energy Storage Facility, or (iv) for any other reason, so long as there is no additional MW nameplate capacity added to the Energy Storage Facility above twenty (20) MWs (any such improvement which increases the nameplate capacity of the Energy Storage Facility above twenty (20) MWs, together with any associated real property interests, roadways, equipment, transmission facilities, substations or other improvements shall be collectively referred to as the "Additional MW Facilities").

(b) If there shall be a future addition to the Energy Storage Facility constructed or added in any manner after the date this PILOT Agreement, which constitutes Additional MW Facilities, the Company shall notify the Agency of such addition. The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications and any other relevant information that the Agency may thereafter request. Beginning with the first year after the Town's Taxable Status Date which follows the commercial operation date of any such Additional MW Facilities, the Company shall become liable for payment of an increase in the total PILOT Payment. The Agency shall notify the Company of any proposed increase in the total PILOT Payment. The Agency shall notify the Company of any proposed increase in the total PILOT Payment related to such Additional MW Facilities based on the Town's assessed value of such Additional MW Facilities. If the Company shall disagree with the determination of assessed value for any Additional MW Facilities made by the Town, then, and in that event, said valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased PILOT Payment related to the Additional MW Facilities until a different PILOT Payment related to the Additional MW Facilities shall be established. If a lesser PILOT Payment is determined in any proceeding or by subsequent agreement of the parties, the total PILOT Payment shall be recalculated and any excess payment (plus interest thereon as though such excess constituted a refund of Real Estate Taxes under RPTL Section 726), if any, shall be applied as a credit against the next succeeding total PILOT Payment.

Section 6. Proration.

During the last year of the term of the Lease Agreement, the Company may prorate any of its PILOT Payments 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 PILOT Payments 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 7. Obligations and Rights of the Company Relating to Tax Assessments and Levies.

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

(i) 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;

(ii) 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

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

(b) The payments the Company is required to make under this PILOT Agreement are subject to the Company's rights, hereby granted, (i) 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 exemption afforded by Section 485-b or Section 487 of the New York Real Property Tax Law), and (ii) to seek to obtain refunds of any such payments made including payments made pursuant to this PILOT Agreement. The Agency, at no expense to 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 or increase based on Additional MW Facilities as provided above so long as the Lease Agreement shall remain in effect.

#### Section 8. Default in PILOT Payments.

In the event the Company fails to make PILOT Payments 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 jurisdiction to recover such amounts. It is understood that the right of any taxing jurisdiction 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, the Town, the County and/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 9. 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 PILOT Payments have been made.

Section 10. Effect of Events of Default.

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

(i) The Company fails to make any PILOT Payments required hereunder, or fails to perform any other obligation imposed on the Company hereunder.

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

(b) 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 PILOT Payments on the Project in such amounts as would be payable as real estate taxes levied on the Project as 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 jurisdictions.

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

Section 11. 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.

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IN WITNESS WHEREOF, the Agency and the Company have caused this PILOT Agreement to be executed by their Authorized Representatives, 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 24<sup>th</sup> day of February, in the year 2022 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.

[Signature]  
Notary Public

EVAN Y. BUSSIERE  
Notary Public, State of New York  
Qualified in Erie County  
No. 02BU6218916  
Commission Exp. March 15, 2022

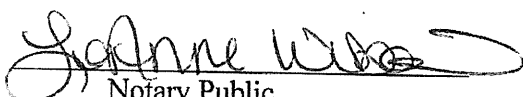
ORANGEVILLE ENERGY STORAGE LLC

By:   
Michael Kaplan  
Vice President and Authorized Signatory

Authorized Signatory

STATE OF IL )  
  ) SS.:  
COUNTY OF COOK )

On the 28<sup>th</sup> day of February, in the year 2022, before me, the undersigned, personally appeared MICHAEL KAPLAN, 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 s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

  
Notary Public



SCHEDULE "A"

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PROPERTY DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE TOWN OF ORANGEVILLE BEING PART OF LOT 29, TOWNSHIP 9, RANGE 2 OF THE HOLLAND LAND COMPANY'S SURVEY, COUNTY OF WYOMING AND STATE OF NEW YORK, AND DESCRIBED AS FOLLOWS:

Beginning at a point located at the intersection of the boundary division line between the lands of Scott C. Everett and Donna Lee Clemens Everett on the east, and the lands of Ted N. Wilkinson on the west, with the centerline of Centerline Road, also known as the south line of lot 29. Said point being 1908.22' easterly of the southwest corner of Lot 29 as measured along the centerline of Centerline road;

Thence N 00° 00' 33" E along the aforementioned boundary division line a distance of 1837.96' to the point of intersection for the boundary division line between the lands of Scott C. Everett and Donna Lee Clemens Everett on the south, and the lands of Howard Petre on the north;

Thence N 87° 46' 29" E along the aforementioned boundary division line, and others, a distance of 473.29' to the point of intersection for the boundary division line between the lands of Scott C. Everett and Donna Lee Clemens Everett on the west, and the lands of Barb Chaffe on the east;

Thence S 00° 00' 33" W along the aforementioned boundary division line a distance of 1844.89' to the centerline of said Centerline Road;

Thence S 88° 36' 46" W along the aforementioned centerline of Centerline Road a distance of 473.09' to the point of beginning. Containing 19.99 acres of land, more or less.



SCHEDULE "B"

PAYMENT IN LIEU OF TAX SCHEDULE

PILOT Payments shall be made to the Agency no later than February 1 of each year in which this Agreement is in effect. PILOT Payments shall be calculated as follows:

With respect to the general levy real property taxes on the underlying real property upon which the Solar Facility is erected, said general levy real property taxes shall continue to be paid by the fee/title owner of the Premises to each respective taxing jurisdiction as and when due.

With respect to the Solar Facility, the Company shall make payments of \$1,475.00 per megawatt (MW) AC installed capacity, subject to an annual increase equal to 2.5%.

<u>TAX FISCAL YEAR</u>			<u>PER MEGAWATT CHARGE</u>
<u>Town</u>	<u>County</u>	<u>School</u>	
2023	2023	2022-2023	
2024	2024	2023-2024	\$1,475.00
2025	2025	2024-2025	\$1,511.90
2026	2026	2025-2026	\$1,549.70
2027	2027	2026-2027	\$1,588.40
2028	2028	2027-2028	\$1,628.10
2029	2029	2028-2029	\$1,668.80
2030	2030	2029-2030	\$1,710.50
2031	2031	2030-2031	\$1,753.30
2032	2032	2031-2032	\$1,797.10
2033	2033	2032-2033	\$1,842.10
2034	2034	2033-2034	\$1,888.10
2035	2035	2034-2035	\$1,935.30
2036	2036	2035-2036	\$1,983.70
2037	2037	2036-2037	\$2,033.30
2038	2038	2037-2038	\$2,084.10
2039	2039	2038-2039	\$2,136.20
2040	2040	2039-2040	\$2,189.60
2041	2041	2040-2041	\$2,244.40
2042	2042	2041-2042	\$2,300.50
			\$2,358.00