

## HOST COMMUNITY BENEFIT AGREEMENT

**THIS HOST COMMUNITY BENEFIT AGREEMENT** (the "Community Benefit Agreement"), dated as of the \_\_\_\_ day of February \_\_\_\_, 2023 by and between the County of Albany, a political subdivision of the state of New York (the "State"), with offices at 112 State Street Albany, New York 12207 (the "County") and Hecate Energy Albany 1 LLC and Hecate Energy Albany 2 LLC, each limited liability companies duly organized and validly existing under the laws of the State of Delaware, with offices at 230 Park Avenue, Suite 1560 New York, NY 10169 (collectively, the "Company").

### WITNESSETH:

WHEREAS, the Company recognizes that their Facility, consisting of an approximately 40 megawatt AC commercial-scale solar electric generating facility, will continue to impact the surrounding community; and

WHEREAS, in consideration of the impacts on the community and the support and participation of the County with respect to the Facility, the Company has agreed to provide a payment to the County, as set forth within this Community Benefit Agreement (collectively, the "Community Benefits"); and

WHEREAS, the County and the Company wish to memorialize the terms and conditions associated with the payment of the Community Benefits.

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 Covenants

#### Section 1.1. Representations and Covenants of the County.

The County makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The County is a political subdivision of the State and has the power to enter into the transaction contemplated by this Community Benefit Agreement and to carry out its obligations hereunder.

(b) The County has been duly authorized to execute and deliver this Community Benefit Agreement.

(c) Neither the execution and delivery of this Community Benefit Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Community Benefit Agreement will conflict with or result in a breach of any

of the terms, conditions or provisions of any agreement or instrument to which the County is a party or by which it is bound, or will constitute default under any of the foregoing.

(d) The County has been induced to enter into this Community Benefit Agreement by the undertaking of the Facility by the Company to equip, repair and maintain the Facility in the County, New York.

#### Section 1.2. Representations and Covenants of the Company.

The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a Delaware limited liability company duly organized and validly existing under the laws of the State of Delaware, is authorized to do work in the State of New York, has the authority to enter into this Community Benefit Agreement and has duly authorized the execution and delivery of this Community Benefit Agreement.

(b) Neither the execution and delivery of this Community Benefit Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Community Benefit Agreement 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 Community Benefit Agreement.

#### Article II - Payee/Payment of Community Benefit Fee.

Section 2.1. (a) *Community Benefit Fee.* The Company agrees to pay to the County a community benefit fee (the "Community Benefit Fee") on or before \_\_\_\_\_ 2023 (the "Payment Date") in an amount reflecting \$14,536.00 per year, less a deduction of five percent (5%) net present value to account for the upfront payment to the County. As set forth within **Schedule A** hereto, the total Community Benefit shall be **\$ 181,154.64**.

(b) *Interest.* The Company's failure to remit any Benefit Fee due pursuant to this Community Benefit Agreement within five (5) days of the corresponding Payment Date shall require an additional payment by the Company of interest calculated at a rate of Five Percent (5.00%) per annum for each day past the Payment Date.

(c) *Use of Fund; Public Purposes.* The parties agree and acknowledge that payments made hereunder are to provide revenues to the County to partially mitigate the additional burdens

being placed on the County as a result of the Facility and shall be used for any lawful public purposes to be undertaken by the County and/or any duly appointed agent or assignee thereof. The revenues paid by the Company to the County, which shall be utilized at the sole and absolute discretion of the County, including, but not limited to, as a source of funding for prospective costs and expenses associated with and related to anticipated municipal services and additional infrastructural improvements to be provided as a result of the Facility's presence within the County.

#### Article III - Termination; Default.

Section 3.1. This Community Benefit Agreement shall terminate upon full payment by the Company to the County of the Community Benefit Fee, at which such time the Company shall be released from all liability or future payments to the County. Failure by the Company to make any payment due and owing to the County or its duly authorized assignee within sixty (60) days of written demand shall be deemed an Event of Default hereunder, as the Company expressly recognizes and accepts as fact that this Community Benefit Agreement was an integral part of the negotiations and consideration of the PILOT agreement. Moreover, should the Company's benefits relating to the PILOT Agreement terminate, expire or otherwise be cancelled, this Community Benefit Agreement and the Company's payment obligations hereunder shall also terminate and expire.

#### Article IV - Miscellaneous.

Section 4.1. This Community Benefit Agreement 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 4.2. 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 County:

County of Albany  
Attn: County Executive  
112 State Street  
Albany, New York 12207  
To the Company:

Hecate Energy Albany 1 LLC  
Hecate Energy Albany 2 LLC  
c/o Greenbacker  
230 Park Avenue, Suite 1560  
New York, NY 10169

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 4.3. This Community Benefit Agreement 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 Albany County, New York.

Section 4.4. The County, in its exclusive discretion, may assign this Community Benefit Agreement to a third-party for purposes of administering the undertakings outlined herein. In the event of such assignment, the County shall notify the Company in writing at least thirty (30) days in advance of the effective date of any such assignment.

Section 4.5. (a) The obligations and agreements of the County contained herein shall be deemed the obligations and agreements of the County, and not of any trustee, officer, agent or employee of the County in his individual capacity, and the trustees, officers, agents and employees of the County 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 Community Benefit Agreement]**

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

**County of Albany**

By: \_\_\_\_\_  
Its: [County Executive]

**HECATE ENERGY ALBANY 1 LLC  
HECATE ENERGY ALBANY 2 LLC**

By: \_\_\_\_\_  
Its: Designated Officer

## **SCHEDULE A**

### Payment Schedule

| <b><u>Payment Year</u></b>     | <b><u>Payment Due Date</u></b> | <b><u>Total Payment Amount</u></b> |
|--------------------------------|--------------------------------|------------------------------------|
| 2023                           | 31-Dec-23                      | \$14,536                           |
| 2024                           | 31-Dec-24                      | \$14,536                           |
| 2025                           | 31-Dec-25                      | \$14,536                           |
| 2026                           | 31-Dec-26                      | \$14,536                           |
| 2027                           | 31-Dec-27                      | \$14,536                           |
| 2028                           | 31-Dec-28                      | \$14,536                           |
| 2029                           | 31-Dec-29                      | \$14,536                           |
| 2030                           | 31-Dec-30                      | \$14,536                           |
| 2031                           | 31-Dec-31                      | \$14,536                           |
| 2032                           | 31-Dec-32                      | \$14,536                           |
| 2033                           | 31-Dec-33                      | \$14,536                           |
| 2034                           | 31-Dec-34                      | \$14,536                           |
| 2035                           | 31-Dec-35                      | \$14,536                           |
| 2036                           | 31-Dec-36                      | \$14,536                           |
| 2037                           | 31-Dec-37                      | \$14,536                           |
| 2038                           | 31-Dec-38                      | \$14,536                           |
| 2039                           | 31-Dec-39                      | \$14,536                           |
| 2040                           | 31-Dec-40                      | \$14,536                           |
| 2041                           | 31-Dec-41                      | \$14,536                           |
| 2042                           | 31-Dec-42                      | \$14,536                           |
| <b>TOTAL</b>                   |                                | <b>\$290,726</b>                   |
| <b>NPV at 5% discount rate</b> |                                | <b>\$181,154</b>                   |