

HOST COMMUNITY BENEFIT AGREEMENT

THIS HOST COMMUNITY BENEFIT AGREEMENT (the "Host Community Benefit Agreement") is dated as of the 11 day of July, 2023 (the "Effective Date"), by and between the Town of Burke, a municipal corporation of the State of New York, with offices at 5165 State Route 11, Burke, New York 12917 (the "Town"), and AES Glengarry Farms Solar, LLC, a foreign limited liability company duly organized and validly existing under the laws of the State of Delaware, with offices at 15 Madison Ave, 15th Floor, New York, NY 10017 (the "Company").

WITNESSETH:

WHEREAS, the Company is developing or shall develop a 5 MWAC solar project on a portion of property located at 5672 NYS Route 11 (Tax Map No. 59.-4-14.200) in the Town (the "Project");

WHEREAS, the Company intends to enter into an agreement respecting the Project making provisions for payments in lieu of taxes (the "PILOT Agreement") by the Company with the County of Franklin Industrial Development Agency (the "IDA") for the benefit of the Town, Franklin County (the "County"), and the Chateaugay Central School District;

WHEREAS, the Company recognizes that the Project will impact the surrounding community, particularly the Town, more specifically that, during the development, construction, and long-term operation of said Project, the Town may incur expenses in connection with its "police powers";

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

WHEREAS, the Town and the Company wish to memorialize the terms and conditions associated with the payment of the Host Community Benefit Fee and are entering into this Host Community Benefit Agreement for that purpose.

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 Town.

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

(a) The Town has the power to enter into this Host Community Benefit Agreement and the transaction contemplated by this Host Community Benefit Agreement and to carry out its obligations hereunder and has duly authorized the execution and delivery of this Host Community Benefit Agreement.

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

(c) Neither the execution and delivery of this Host Community Benefit Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Host 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 Town is a party or by which it is bound, or will constitute default under any of the foregoing.

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 duly organized and validly existing under the laws of the State of Delaware, has the authority to enter into this Host Community Benefit Agreement and has duly authorized the execution and delivery of this Host Community Benefit Agreement.

(b) Neither the execution and delivery of this Host Community Benefit Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Host 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 Company is a party or by which it is bound, or will constitute a default under any of the foregoing, a violation of any applicable law, 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) To the knowledge of the Company, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court or public board or body pending to which the Company is a party, nor has the Company received written notice of any such threatened action, suit, proceeding, inquiry or investigation, and in which an adverse result would materially diminish or adversely impact on the Company's ability to fulfill its obligations under this Host Community Benefit Agreement.

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

Section 2.1.

(a) *Host Community Benefit Fee.* In consideration for the potential impacts on the community with respect to the Project, the Company agrees to pay an annual fee to the Town at its address noted above in the initial amount of Seven Thousand Five Hundred and 00/100 Dollars (\$7,500) (One Thousand Five Hundred and 00/100 Dollars (\$1,500) per megawatt AC (the "Host Community Benefit Fee") commencing on the first day of the month that is at least thirty (30) days following the date the Project achieves commercial operation, and on each subsequent anniversary date thereafter (each, a "Payment Date"), which Host Community Benefit Fee shall, effective as of the first anniversary of the Payment Date, and on each subsequent Payment Date, increase by two percent (2%) over the immediately preceding Host Community Benefit Fee. The Company agrees to make annual payments of the Host Community Benefit Fee until this Host Community Benefit Agreement is terminated. The term "commercial operation" shall mean the later of when the Project has (i) been issued a certificate of completion by the Town, or (ii) commenced generating electricity (excluding any electricity generated during start-up and commissioning of the Project) and delivering such energy to the local utility grid for sale. Notwithstanding the foregoing, should the Company, following the

expiration or earlier termination of this Host Community Benefit Agreement, enter into a new PILOT Agreement with the IDA in connection with the repower or other modification of the Project, then this Host Community Benefit Agreement shall be extended automatically for a term equal to the term of the new or extended PILOT Agreement; provided, however, nothing herein shall preclude the Town and the Company from amending this Host Community Agreement.

(b) *Notice: Cure.* In the event the Company fails to pay the Host Community Benefit Fee by the date due under this Host Community Benefit Agreement (a "**Monetary Breach**"), the Town Board shall provide written notice of the alleged Monetary Breach specifying the details of the alleged Monetary Breach and the amount due. The Company shall cure any Monetary Breaches within thirty (30) days after receipt of such notice.

(c) *Use of Funds; Public Purposes.* The parties agree and acknowledge that the Host Community Benefit Fee payments made hereunder are voluntary and shall be used for any lawful, public purposes to be undertaken by the Town. The Host Community Benefit Fee revenues paid by the Company to the Town are to be utilized at the sole and absolute discretion of the Town, including, but not limited to, as a source of funding for prospective costs and expenses associated with and related to anticipated municipal services and infrastructural improvements to be provided as a result of the Project's presence within the Town.

Article III - Termination.

Section 3.1. This Host Community Benefit Agreement shall terminate upon the earlier of (a) full payment of all Host Community Benefit Fees to the Town due under the terms and conditions of this Host Community Benefit Agreement, and full cessation of operation and the decommissioning of Project, or (b) the written agreement of the parties hereto.

Article IV - Miscellaneous.

Section 4.1. This Host 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 delivered by overnight courier or mailed first class, postage prepaid, as follows:

To the Town:

Town of Burke
5165 State Route 11
P.O. Box 121
Burke New York 12917
Attention: Town Supervisor

With a copy to:

The West Firm, PLLC

Attn: Greg Mountain
Peter Kiernan Plaza
575 Broadway, 2nd Floor
Albany, New York 12207

To the Company:
AES Glengarry Farms Solar, LLC
Attn: Mike Farrell
15 Madison Ave, 15th Floor
New York, NY 10017

With a copy to:
AES Glengarry Farms Solar, LLC
Attn: General Counsel
2180 South 1300 East, Suite 500
Salt Lake City, UT 84106

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 delivered in the manner provided in this Section.

Section 4.3. This Host 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 or for Franklin County, New York.

Section 4.4.

(a) The obligations and agreements of the Town contained herein shall be deemed the obligations and agreements of the Town, and not of any trustee, officer, agent or employee of the Town or in an individual capacity; and the trustees; officers; agents and employees of the Town shall not be liable personally hereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby.

(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 be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby.

Section 4.5. The failure of any Party to insist on the strict performance of any term or provision hereof will not be deemed a waiver of the right to insist on strict performance of any other term or provision, nor will it be deemed a waiver of any subsequent breach. Unless specifically stated, the selection of any specific remedy hereunder or under any applicable law, rule or regulation ("Applicable Law") by either Party shall not be deemed an election of remedies limiting either Party's

right to seek any other remedy otherwise allowed by this Host Community Benefit Agreement or Applicable Law.

Section 4.6 ASSIGNMENT BY TOWN.

The Town may transfer or assign any of its rights under this Host Community Benefit Agreement, provided that such transfer or assignment is due to a Town related financing transaction, without the prior written consent of the Company. The Company shall cooperate with the Town from time to time, including, without limitation, by entering into a consent and assignment or other agreements with the Town and the financing parties involved with any such financing or securitization in connection with any collateral assignment on such terms as may be customary under the circumstances and shall reasonably be required by the involved financing parties, subject to the Company's approval of the forms of such documents.

Section 4.7 ASSIGNMENT BY COMPANY

The Company may: (a) assign this Host Community Benefit Agreement to any (i) purchaser or successor in and to the Project, (ii) affiliate or subsidiary of the Company that is controlled by, controlling, or under common control with the Company and is then the owner of the Project, or (iii) persons or entities providing financing for the Project ("Lender"), and such purchaser, affiliate, and Lender are collectively defined as a "Successor"), provided such Successor assumes and agrees to be bound by this Host Community Benefit Agreement by executing and submitting to the Town a notice of assignment and assumption of this Host Community Benefit Agreement, and may (b) pledge, encumber, hypothecate, mortgage, grant a security interest in and collaterally assign this Host Community Benefit Agreement to any 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 or any portion thereof solely in accordance with the Company's rights under this Host Community Benefit Agreement (and subject to the Company's obligations under this Host Community Benefit Agreement) and perform any obligations to be performed by Company or a Successor hereunder; or (c) exercise any rights of Company hereunder. The Town shall cooperate with the Company, its affiliates, any Successor from time to time, including, without limitation, by entering into a consent and assignment or other agreements with such Successor 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 Successor, including execution of a consent to the assignment of this Host Community Benefit Agreement, subject to the Town's reasonable approval of the forms of such documents. In the event this Host Community Benefit Agreement is assigned to a Successor and the Town consents to the assignment, the Company shall have no further obligations hereunder, except for any obligations outstanding on the date of the transfer, but only if the Successor has in writing confirmed its acceptance of its obligations. Subject to the requirements set forth herein, nothing herein shall limit in any way the right of the owners of the Company to sell or otherwise transfer (including by merger or consolidation with any other entity) all or a portion of their ownership interests in the Company.

[Signature Page to Host Community Benefit Agreement]

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

TOWN

Town of Burke

By: 

Name: William K. Wood

Title: Town Supervisor

COMPANY

AES Glengarry Farms Solar, LLC

By: Joshua S Baird

Name: Joshua S Baird

Title: Director, Development