

TOWN OF DUANESBURG
DECOMMISSIONING ESCROW AGREEMENT

THIS DECOMMISSIONING ESCROW AGREEMENT, made and entered on this ____ day of _____ 2020 (the "Agreement") by and between the **Town of Duanesburg**, a municipal corporation duly established in Schenectady County with a principal place of business located at 5853 Western Turnpike, Duanesburg, NY 12056 (referred to as the "Town"), **Oak Hill Solar 1 LLC**, a limited liability company formed under the laws of the State of New York with principal offices at 1550 Wewatta Street, 4th Floor, Denver, CO 80202 (referred to as the "Operator") is made upon the following terms and conditions:

PROJECT NAME: **Oak Hill 1** (the "Project")

PROJECT LOCATION: **13590 Duanesburg Road Delanson, NY (Tax Map 74.00-2-5)** in the Town of Duanesburg, Schenectady County, New York (the "Project Site").

PROJECT: Operator intends to permit, construct, operate and maintain solar energy facilities with battery storage with an estimated aggregate size of five (5) megawatts of alternating-current (AC) nameplate capacity that will generate electric power (the "Project").

1. As a requirement for the approval of the Project, the Town and the Operator have on even date herewith entered into a decommissioning agreement (the "Decommissioning Agreement") setting forth the terms and conditions under which the Operator is required to remove the Project from the Project Site.

2. The Decommissioning Agreement requires the Operator to deposit the amount of ~~\$211,381~~ in escrow with the Town (the "Escrowed Funds"). The Parties agree that the Escrowed Funds shall be used solely to pay for any Decommissioning (as defined in the Decommissioning Agreement) of the Project, and only in the circumstances set forth in the Decommissioning Agreement. Prior to the end of each successive five (5) -year period after the execution of the Decommissioning Agreement, the Operator shall provide the Town with an updated decommissioning plan in accordance with the Decommissioning Agreement and the Escrowed Funds shall be changed to reflect the updated estimate approved by the Town for such Decommissioning of the Project.

3. To properly implement the Decommissioning Agreement, the Operator shall simultaneously with its execution of this Agreement, deliver the Escrowed Funds to the Town. The Escrowed Funds will be placed into an escrow account controlled by the Town (the "Escrow Account"). The purpose of the Escrow Account is to provide the Town funding for the Decommissioning of the Project should a Triggering Event (as defined in the Decommissioning Agreement) occur and should the Town elect to decommission the Project as provided for in the Decommissioning Agreement.

4. In the event of a Triggering Event and the Town's election to decommission the Project, should the costs of Decommissioning incurred by the Town exceed the amount of Escrowed Funds, Operator or its successor in title to the Project shall be responsible for

reimbursing the Town for any and all such excess costs, provided that the Town delivers to the Operator a reasonable written record of such costs.

5. The Town hereby acknowledges and agrees that at any time during the term of the Decommissioning Agreement that the Town receives written request from the Operator, the Town shall provide a complete statement of funds in the Escrow Account and any expenditures thereof.

6. Upon the completion of the Decommissioning of the Project in accordance with the terms and conditions of the Decommissioning Agreement, any balance remaining in the Escrow Account, if any, shall be refunded to Operator within sixty (60) of completion.

7. This Agreement, together with the Decommissioning Agreement, contains all of the terms agreed upon between the Town and Operator with respect to the subject matter hereof. This Agreement has been entered into after full investigation and neither party relies on any oral representations or statements from the other as an inducement to entering into this Agreement.

8. This Agreement may not be altered, amended, changed, modified, waived or terminated in any respect unless the same shall be in writing signed by the party to be bound.

9. The Operator shall have the right, at all times, to assign any of its rights and obligations under this Agreement and any rights to any remaining funds in the Escrow Account provided the Town receives prompt written notice of the identity of and contact information for such assignee.

10. This Agreement and all the rights and remedies of the Town hereunder shall inure to the benefit of and be binding upon the Town and its respective successors, endorsers and permitted transferees and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflicts of law principles. By executing this Agreement, the parties agree that venue for all judicial actions, suits or proceedings commenced with respect to any matters arising out of or in connection with this Agreement or for recognition or enforcement of any judgment rendered in any such proceedings, is proper in a court of competent jurisdiction in Schenectady County, New York or in the United States District Court for the Northern District of New York. By execution and delivery of this Agreement, the parties accept, generally and unconditionally, the jurisdiction of the aforesaid courts. **THE PARTIES HEREBY IRREVOCABLY WAIVE TRIAL BY JURY AND ANY OBJECTIONS, INCLUDING, WITHOUT LIMITATION, ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH HE/SHE/THEY/IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN ANY SUCH JURISDICTION.**

11. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Faxed or e-mailed signatures to this agreement shall be binding for all purposes.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

The Town of Duaneburg

Oak Hill Solar 1, LLC

Roger Tidball, Supervisor

By: _____
Its: _____