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CLOSING MEMORANDUM

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LEASE/LEASEBACK TRANSACTION  
ALLEGANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
ALLE-CATT WIND ENERGY LLC PROJECT

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Date of Closing: February 25, 2025

Place of Closing: VIA MAIL

I. DESCRIPTION OF THE TRANSACTION:

In December, 2019, Alle-Catt Wind Energy LLC (the “Company”), a limited liability company duly organized and validly existing under the laws of the State of Delaware, presented an application (the “Application”) to Allegany County Industrial Development Agency (the “Agency”), a public benefit corporation duly established under Chapter 1030 of 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 99 of the 1973 Laws of New York, as amended, constituting Section 906-a of said General Municipal Law of the State of New York (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”), which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project to include the following: (A) (1) the acquisition of an interest in multiple parcels of land in the Towns of Centerville and Rushford, Allegany County, New York (the “Land”), various parcels of land scattered amongst approximately 15,000 leased acres located in the northwestern corner of Rushford and throughout the Town of Centerville, Allegany County, New York (collectively, the “Land”), (2) the construction of various improvements to be located on the Land, including, but not limited to, the following: approximately forty-nine (49) wind turbine generators (approximately 13 of such generators to be located in the Town of Rushford and approximately 36 generators to be located in the Town of Centerville), averaging 3MW each, for a total of 143.6 MW. all of the foregoing to constitute a wind energy generating facility to be owned and operated by the Company (the Land, Facility and the Equipment being collectively referred to as the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes and real estate transfer taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

Pursuant to the authorization contained in a resolution adopted by the members of the Agency on December 12, 2019 (the “Public Hearing Resolution”), the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to

hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on December 10, 2019 to the chief executive officers of the county and of each town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on (i) December 10, 2019 on a public bulletin board located at Crossroads Commerce & Conference Center, 6087 State Route 19 North, Belmont, Allegany County, New York and (ii) December 10, 2019 on the Agency's website, (C) caused notice of the Public Hearing to be published on December 13, 2019 in The Wellsville Spectator, a newspaper of general circulation available to the residents of the Towns of Centerville and Rushford, Allegany County, New York, (D) conducted the Public Hearings on December 30, 2019 at 10:00 o'clock a.m., local time at the Rushford Fire Hall located at 8911 Upper Street in the Town of Rushford, Allegany County, New York and on December 30, 2019 at 1 o'clock p.m., local time at the Centerville Fire Hall located at 8936 County Road 3 in the Town of Centerville, Allegany County, New York, and (E) prepared a report of the Public Hearings (collectively the "Public Hearing Report") fairly summarizing the views presented at such Public Hearings and caused copies of said Public Hearing Report to be made available to the members of the Agency.

Pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the Agency determined that the Project is exempt from review under SEQRA pursuant to the provisions of Article 10 of the Public Service Law of the State of New York, as amended, and therefore a determination by the Agency as to whether the Project may have a "significant effect on the environment" (as said quoted term is defined under SEQRA) is not required.

The Agency's Uniform Tax Exemption Policy (the "Policy") provides a standardized method for the determination of payments in lieu of taxes for a facility similar to the Project Facility. In connection with the Application, the Company made a request to the Agency (the "Pilot Request") that the Agency deviate from the Policy with respect to Project Facility. Pursuant to the resolution adopted by the members of the Agency on July 9, 2020 (the "Pilot Deviation Notice Resolution"), the members of the Agency authorized the Executive Director of the Agency to send a notice to the chief executive officers of the "Affected Tax Jurisdictions" (as defined in the Act) pursuant to Section 874(4) of the Act, informing said individuals that the Agency had received the Pilot Request and that the members of the Agency would consider said request at a meeting of the members of the Agency scheduled to be held on August 13, 2020. The Executive Director of the Agency caused a letter dated July 9, 2020 (the "Pilot Deviation Notice Letter") to be mailed to the chief executive officers of the Affected Tax Jurisdictions, informing said individuals that the Agency would, at its meeting on August 13, 2020, consider a proposed deviation from the Policy with respect to the payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility and the reasons for said proposed deviation.

By resolution adopted by the members of the Agency on August 13, 2020 (the "Pilot Deviation Approval Resolution"), the members of the Agency determined to deviate from the Agency's Policy with respect to the Project.

By further resolution adopted by the members of the Agency on August 13, 2020 (the "Approving Resolution"), the Agency determined to grant the Financial Assistance and to enter into a lease agreement dated as of February 1, 2025 (the "Lease Agreement") between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the "Basic Documents"). Pursuant to the terms of the Lease Agreement, (A) the Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the Project and (B) the Agency has leased the Project Facility to the Company. The Lease Agreement grants to the Company certain options to acquire the Project Facility from the Agency.

In July, 2024 the Agency received an amended application from the Company (the “Amended Application”) providing for certain amendments to the Application (the Application, as amended by the Amended Application, is hereinafter referred to as the “Amended Application”) with respect to the Project from the Company, which Amended Application contains revised Project costs, revised Project description and amounts of Financial Assistance resulting in the need for the Agency, pursuant to Section 859-a of the Act, to hold a second public hearing with respect to the Project and the amount of the Financial Assistance as described in the Amended Application.

Pursuant to the Amended Application, the members of the Agency adopted a public hearing resolution on July 11, 2024 (the “Second Public Hearing Resolution”) authorizing the Executive Director of the Agency to (A) cause notice of a public hearing of the Agency (the “Second Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on July 15, 2024 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located, (B) cause notice of the Second Public Hearing to be posted on July 18, 2024 on the Agency’s website and on July 19, 2024 on a public bulletin board in the Town of Rushford and on July 20, 2024 on a public bulletin board in the Town of Centerville, Allegany County, New York, (C) cause notice of the Second Public Hearing to be published on July 25, 2024 in The Hornell Evening Tribune, a newspaper of general circulation available to the residents of Allegany County, New York, (D) conduct the Second Public Hearings on August 7, 2024 at 7:00 o’clock p.m., local time at the Rushford Town Hall, 8999 Main Street, Town of Rushford, Allegany County, New York, and on August 6, 2024 at 7:00 o’clock p.m., local time at the Centerville Town Hall, 8902 County Road 3, Town of Centerville, Allegany County, New York, (E) prepare reports of the Second Public Hearing (collectively the “Second Hearing Report”) fairly summarizing the views presented at such Second Public Hearings and (F) mail a certified copy of the Public Hearing Resolution with respect to the Amended Application to the affected taxing jurisdictions.

By resolution adopted by the members of the Agency on August 8, 2024 (the “Amended Approving Resolution”), the Agency determined to amend the Project per the Amended Application.

Pursuant to the Amended Approving Resolution, the Project now consists of the following: (A) (1) the acquisition of an interest in multiple parcels of land located in the Towns of Centerville and Rushford, Allegany County, New York, together with various parcels of land scattered amongst approximately 15,000 leased acres located in the northwestern corner of the Town of Rushford and throughout the Town of Centerville, Allegany County, New York (collectively, the “Land”), (2) the construction and installation on the Land of approximately twenty-eight (28) wind turbine generators averaging 4.5 MW each, for a total of 126 MW (collectively, the “Facility”), (3) the construction of associated access roads and electrical interconnect infrastructure (collectively, the “Infrastructure”) and (4) the acquisition and installation of certain machinery and equipment therein and thereon (collectively, the “Equipment”), all of the foregoing to constitute a wind energy generating facility to be owned and operated by the Company (the Land, Facility, the Infrastructure and the Equipment being collectively referred to as the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes and real estate transfer taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

Simultaneously with the execution and delivery of the Lease Agreement (the “Closing”), (A) the Company will execute and deliver to the Agency a certain lease to agency dated as of February 1, 2025 (the “Lease to Agency”) by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the “Leased Premises” or the “Premises”); (B) the Company and

the Agency will execute and deliver (1) a certain payment in lieu of tax agreement dated as of February 1, 2025 (the “Payment in Lieu of Tax Agreement”) by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility, (2) a certain recapture agreement dated as of February 1, 2025 (the “Section 875 GML Recapture Agreement”) by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; (C) the Agency and the Company will execute and deliver a uniform agency project agreement dated as of February 1, 2025 (the “Uniform Agency Project Agreement ”) by and between the Agency and the Company relating to the terms of the granting by the Agency of the Financial Assistance to the Company; (D) the Agency will file with the assessor and mail to the chief executive officer of each “affected tax jurisdiction” (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the “Real Property Tax Exemption Form”) relating to the Project Facility and the Payment in Lieu of Tax Agreement; (E) the Agency will execute and deliver to the Company a sales tax exemption letter (the “Sales Tax Exemption Letter”) to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance and (F) the Agency will file with the New York State Department of Taxation and Finance the form entitled “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) (the “Thirty-Day Sales Tax Report”).

In order to finance a portion of the costs of the Project, the Company will obtain a loan in the principal sum of up to \$411,065,497.40 (the “Loan”) from The Bank of New York Mellon Trust Company, N.A., as Collateral Agent and Natixis, New York Branch, as Administrative Agent (collectively, the “Lender”), which Loan will be secured by a building loan mortgage, security agreement, assignment of leases and rents, financing statement and fixture filing dated as of February 25, 2025 (the “Mortgage”) from the Agency and the Company to the Lender.

Among the actions taken by the Agency with respect to the Project prior to the Closing Date were the following:

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|-------------------|---|
| December, 2019    | The Company filed an application (the “Application”) relating to the Project with the Agency.                 |
| December 12, 2019 | The Agency adopted the Public Hearing Resolution.   |
| December 10, 2019 | Notice of the Public Hearing was mailed to the chief executive officers of the affected tax jurisdictions.    |
| December 13, 2019 | Notice of Public Hearing was published.   |
| December 30, 2019 | The Agency conducted the Public Hearing.  |
| July 9, 2020      | The Agency adopted the Pilot Deviation Notice Resolution.   |
| August 13, 2020   | The Agency adopted the Pilot Deviation Approval Resolution.   |
| August 13, 2020   | The Agency adopted the Approving Resolution.  |
| July, 2024        | The Company filed an amended application (the “Amended Application”) relating to the Project with the Agency. |

July 11, 2024	The Agency adopted the Second Public Hearing Resolution.
July 15, 2024	The Second Public Hearing Resolution was mailed to the chief executive officers of the affected tax jurisdictions.
July 18-20, 2024	Notice of the Second Public Hearing was posted.
July 25, 2024	Notice of the Second Public Hearing was published.
August 6-7, 2024	The Agency conducted the Second Public Hearings.
August 8, 2024	The Agency adopted the Amended Approving Resolution.

**II. PARTIES REPRESENTED AT THE CLOSING:**

<p><b>AGENCY:</b>          Judy Hopkins, Chairperson          Richard Ewell, Secretary          Craig R. Clark, P.E., Ph.D., Executive Director          Allegany County Industrial Development Agency</p>	(A)
<p><b>AGENCY COUNSEL:</b>          Daniel A. Spitzer, Esq.          Nadene E. Zeigler, Esq.          Hodgson Russ LLP</p>	(HR)
<p><b>COMPANY:</b>          Michael Baird, Vice President          Invenergy          Alle-Catt Wind Energy LLC</p>	(C)
<p><b>COMPANY’S COUNSEL:</b>          John W. Dax, Esq.          Edmund J. Russell, III, Esq.          Hodgson Russ LLP</p>	(CC)
<p><b>LENDER:</b>          The Bank of New York Mellon Trust Company, N.A.</p>	(L)

**III. ACTION TO BE TAKEN AT THE CLOSING:**

The following documents, or copies thereof, are to be delivered (except as indicated) to the Agency, Agency’s Counsel, the Company and the Company’s Counsel as follows:

	<u>Production Response.</u>	<u>Execution Response.</u>
A. <u>Basic Documents:</u>		
1. Underlying Lease.	HR	C,A
2. Memorandum of Underlying Lease, together with a combined real estate transfer tax return and credit line mortgage certificate (TP-584).	HR	C,A
3. Lease Agreement.	HR	C,A
4. Memorandum of the Lease Agreement, together with a combined real estate transfer tax return and a credit line mortgage certificate (TP-584).	HR	C,A
5. Payment in Lieu of Tax Agreement.	HR	C,A
6. Section 875 GML Recapture Agreement.	HR	C,A
7. Uniform Agency Project Agreement.	HR	C,A
8. Mortgage.	LC	C,A
9. Certificates (and policies, if available) of casualty, liability, workers' compensation and other insurance required pursuant to the Lease Agreement.	CC	--
10. Closing Receipt.	HR	C,A
B. <u>Items to be delivered by the Agency:</u>		
1. General Certificate of the Agency regarding incumbency and signatures of officers, execution of the Basic Documents and the other documents to be executed by the Agency in connection therewith (the "Agency Documents"), no litigation and continued existence, with the following items included as exhibits:	HR	A
Exhibit A - Chapter 99 of the Laws of 1973;	HR	--
Exhibit B - Certificate of Establishment and Certificates of Appointment of the current members of the Agency, certified by the New York State Department of State, Miscellaneous Records Unit;	HR	--
Exhibit C - By-Laws of the Agency;	HR	--
Exhibit D - Public Hearing Resolution;	HR	A
Exhibit E - Proof of the mailing of notice of the Public Hearing to the chief executive officers of the affected tax jurisdictions;	A	A

		<u>Production Response.</u>	<u>Execution Response.</u>
Exhibit F -	Proofs of the posting of notice of the Public Hearing;	A	A
Exhibit G -	Proof of publication of notice of the Public Hearing;	A	A
Exhibit H -	Report of the Public Hearing;	A	--
Exhibit I -	Pilot Deviation Notice Resolution;	HR	--
Exhibit J -	Pilot Deviation Approval Resolution;	HR	--
Exhibit K -	Approving Resolution;	HR	A
Exhibit L -	Second Public Hearing Resolution;	HR	A
Exhibit M -	Proof of the mailing of Second Public Hearing Resolution to the chief executive officers of the affected tax jurisdictions;	A	A
Exhibit N -	Proof of the mailing of notice of Second Public Hearing to the chief executive officers of the affected tax jurisdictions;	A	A
Exhibit O -	Proofs of the posting of notice of the Second Public Hearing;	A	A
Exhibit P -	Proof of publication of notice of the Second Public Hearing;	A	A
Exhibit Q -	Report of the Second Public Hearing; and	A	--
Exhibit R -	Amended Approving Resolution.	HR	A
2.	Certificate Regarding No Conflicts of Interest.	HR	A
3.	Sales Tax Exemption Letter.	HR	A
4.	Mortgage Recording Tax Affidavit.	HR	A
5.	Real Property Tax Exemption Form.	HR	A
6.	Proof of (A) Mailing and (B) filing of Real Property Tax Exemption Form to the Chief executive officer of the tax assessor of the affected tax jurisdiction.	HR	HR
7.	Thirty-Day Sales Tax Report.	HR,CC	A
8.	Proof of Mailing of Thirty-Day Sales Tax Report to the New York State Department of Taxation and Finance.	HR,CC	A
9.	Agency Counsel Disclosure Statement.	HR	HR

	<u>Production Response.</u>	<u>Execution Response.</u>
C. <u>Items to be delivered by the Company:</u>		
1. General Certificate of the Company regarding incumbency and signatures of officers, execution of the Lease Agreement and other Basic Documents to which the Company is a party (the "Company Documents"), no litigation and continued existence, with the following items included as exhibits:	HR,CC	C,CC
Exhibit A - Certificate of Formation of the Company, certified by the State of Delaware;	CC	--
Exhibit B - Operating Agreement of the Company;	CC	--
Exhibit C - Certificates of Good Standing relating to the Company, certified by the State of Delaware and the New York State Department of State, Corporations Unit;	CC	--
Exhibit D - Resolution of the members of the Company approving and authorizing the execution and delivery by the Company of the Company Documents; and	CC	--
Exhibit E - Pending Litigation.	CC	--
2. Affidavit of the Company.	HR	C
D. <u>Opinion of Counsel:</u>		
1. Opinion of Hodgson Russ LLP, counsel to the Agency, addressed to the Agency, the Company and the Lender.	HR	HR
2. Opinion of Hodgson Russ LLP, counsel to the Company, addressed to the Agency, the Company and the Lender.	HR	CC

IV. ACTION TO BE TAKEN CONCURRENTLY WITH  
OR AFTER THE CLOSING:

1. The Underlying Lease (or a memorandum thereof), the Lease Agreement (or a memorandum thereof) and the Mortgage are to be recorded by the Company in the office of the County Clerk of Allegany County, New York.
2. The Payment in Lieu of Tax Agreement is to be mailed to the assessor and the chief executive officers of each affected tax jurisdiction.
3. The Thirty-Day Sales Tax Report is to be mailed to the New York State Department of Taxation and Finance.

4. The Real Property Tax Exemption Form (RP-412-A) will be mailed to the Assessor and the Chief Executive Officers of each affected tax jurisdiction at a future date agreeable with the Company and the Agency.