

## Site Sublease For Solar Installation

This SITE SUBLEASE FOR SOLAR INSTALLATION (this “Sublease”), dated as of [DATE], 2022 (the “Effective Date”) is by and between [Project Company Entity], LLC, an Illinois limited liability company (“Sublessee”), and Manitowoc Public Utilities, a Wisconsin municipal utility (“Sublessor”). Sublessor and Sublessee are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

### WITNESSETH

WHEREAS, Sublessor is the lessee of the site located at [Address], and more particularly described in Exhibit B (the “Subleased Premises”) pursuant to that certain Site Lease For Solar Installation dated \_\_\_\_\_ between Sublessee and the City of Manitowoc (“Site Lease”);

WHEREAS, in connection with the foregoing, Sublessee desires to sublease the Subleased Premises and other space needed to construct, install, operate and maintain a photovoltaic solar energy generation facility (the “System”) from Sublessor and Sublessor is willing to grant such sublease to Sublessee;

WHEREAS, Sublessee and Sublessor have entered or will enter into a Power Purchase Agreement (the “PPA”), pursuant to which Sublessee will sell Sublessor Energy Output from the System, and the execution of which provides consideration for this Sublease;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Sublessee and Sublessor hereby agree as follows:

#### **1. Subleased Premises and Related Rights.**

(a) Sublessor hereby leases to Sublessee, and Sublessee hereby leases from Sublessor, in accordance with the terms and conditions hereinafter set forth, the Subleased Premises for the purposes set forth in this Sublease and the PPA. Sublessee’s lease of the Subleased Premises shall include reasonable access and use on a non-exclusive basis, in accordance with the terms and conditions in this Sublease, to such additional areas adjacent to the Subleased Premises (including, without limitation, certain utility closets or outdoor appurtenances) necessary for interconnection of the System and System Assets (as defined below) with the utility (the “Other System Space”). In addition, Sublessee and its invitees shall have the right to use, in common with Sublessor and other tenants, those applicable areas adjacent to the Subleased Premises, including the entrances, roads, driveways, parking facilities, and other similar areas which enable Sublessee to obtain full use and enjoyment of the Subleased Premises for the purposes described herein, including but not limited to any driveways, parking areas, field roads and other common spaces which provide access to the Subleased Premises (the “Common Areas”), in all cases consistent with and limited to such areas as defined in the Site Lease.

(b) Sublessor hereby consents to the construction, installation, operation and maintenance of the System, including, without limitation, solar panels, mounting substrates or supports, wiring and connections, power inverters, service equipment, metering equipment, security systems and utility interconnections subject to and in accordance with the terms and conditions set forth in this Sublease.

(c) Provided that Sublessee is in compliance with all of its obligations set forth in this Sublease and the PPA, Sublessor covenants that Sublessee shall have peaceful and quiet enjoyment of the Subleased Premises during the Term (as defined below) of this Sublease. This Sublease is intended to run with the Subleased Premises for the Term (defined herein) and shall survive any sale, assignment or transfer of the Subleased Premises by the record title holder of the Subleased Premises or Subleased Premises.

## **2. Term and Termination.**

(a) Term. The term of this Sublease shall commence on the Effective Date and terminate on the 20th anniversary of the Effective Date (the "Term")

(b) Removal of System. Unless explicitly provided elsewhere in this Sublease or the PPA, Sublessee shall remove the System from the Subleased Premises within 180 days following the expiration or earlier termination of this Sublease for any reason at Sublessee's sole cost and expense. Sublessee's removal obligation shall include both above-ground and below ground System components installed by Sublessee on the Subleased Premises, and the Subleased Premises shall be returned to substantially the same condition as it existed upon the commencement date of this Sublease. Sublessor shall provide Sublessee and its agents, employees, and consultants access at all reasonable times to the Subleased Premises and the System for purposes of such removal and Sublessee shall repair any damage caused to the Subleased Premises by the removal of the System at Sublessee's sole cost and expense. If Sublessor obtains ownership of the System pursuant to the terms of the PPA, this Sublease shall terminate. This obligation shall survive the expiration or termination of this Sublease.

(c) Early termination by Sublessee. Notwithstanding any provision contained herein to the contrary and provided that no work has commenced to construct or install the System on the Subleased Premises, Sublessee may terminate this Sublease without penalty by providing thirty (30) days written notice to Sublessor within 365 days of the Effective Date, if:

(i) Sublessee is not able to obtain a title insurance policy issued by a nationally recognized title insurance provider in connection with its lease of the Subleased Premises, which insures that Sublessee's leasehold interest in the Subleased Premises is recordable, provides marketable title, and is free and clear of all mortgages, liens, security interests, claims, Encumbrances (as defined below) and interests (except those in connection with which Landlord has delivered to Sublessee prior to 180 days from the Effective Date an NDA as described in Section 8(d)); or

(ii) Sublessee is not able to obtain (A) the Interconnection Agreement (as defined below), or (B) all Building and Electrical Permits required for the construction of the System after using commercially reasonable efforts to do so; or

(iii) Sublessee discovers unforeseen structural issues with the Subleased Premises that prevent (or substantially increase the cost of) the installation of the System; or

(iv) Sublessee determines the System is not technically or economically viable due to (1) changes in the Assumptions or Exclusions, (2) Force Majeure Events, or (3) other circumstances beyond Sublessee's reasonable control.

(d) **Effect of Termination.** Effective upon the expiration or earlier termination of this Sublease, with the exception of Sublessee's obligations set forth herein to remove the System and all related components from the Subleased Premises, the Parties will no longer be bound by its terms and conditions and shall be released and discharged from any obligations or liabilities arising or accruing thereunder from and after the date of such termination, except, i) to the extent necessary to enforce any rights and obligations of the Parties arising under this Sublease prior to termination, and, ii) that the obligations of the Parties under this Sublease with respect to claims for indemnification based upon events or circumstances occurring or arising on or before the termination of this Sublease shall survive for a period of two (2) years following any termination of this Sublease.

**3. Payments.** Contemporaneously with the execution of this Sublease the Parties have made and entered into the PPA. The Parties agree and acknowledge that the consideration for this Sublease shall be the mutual covenants and obligations of the Parties as set forth herein and as set forth in the PPA. Annual cash rent of One Dollar (\$1.00) shall be due from Sublessee during the term of this Sublease. The parties acknowledge that cash rent for the Term has been prepaid in full as of the Effective Date.

**4. Sublessee's Work.** Sublessee shall, at its sole expense, construct, install and operate or cause to be constructed, installed and operated the System at the Subleased Premises, in a good and workmanlike manner, with reasonable diligence, strictly in compliance with the System plans and specifications provided to and approved by Sublessor, and consistent with all applicable building codes and Building and Electrical Permits. At no time shall Sublessee allow any contractor or materialmen liens to attach to the Subleased Premises. Sublessee shall be solely responsible for the design and feasibility of the System on the Subleased Premises.

**5. Access to Subleased Premises.**

a) During the Term, Sublessor shall provide Sublessee and its employees, agents, consultants, contractors and sub-contractors and local utility personnel access during normal business hours and at other reasonable times as are acceptable to Sublessee with reasonable prior notice to Sublessee (or in emergency conditions at any time as soon as practicable) to the Subleased Premises, Other System Space and all System Assets and any areas required to interconnect the System with the Subleased Premises' electrical system and any documents, materials and records and accounts relating to the System for purposes of installation, construction, operation, inspection, maintenance and removal of the System under this Sublease. Sublessor shall not withhold such access unreasonably.

b) Notwithstanding any other provisions of this Sublease, Sublessee and its employees, agents, consultants, contractors and sub-contractors and local utility personnel may enter and access the Subleased Premises or outside portions of the Other System Space without prior notice, consent or accompaniment of the Sublessor in any situation related to the System where there is an imminent risk of (i) death or bodily harm to any person, or (ii) substantial damage to either the System or the Subleased Premises (an "Emergency"). Upon learning of an Emergency, either Party shall notify the other as soon as possible.

**6. System and Output Ownership.**

(a) Sublessee's Rights and Responsibilities. Sublessee shall at all times retain title to and be the legal and beneficial owner of the System and all System Assets and System Attributes. In no event shall anyone claiming by, through or under Sublessor (including but not limited to any present or future mortgagee of the Subleased Premises) have any rights in or to the System at any time. All System Assets shall remain the personal property of Sublessee and shall not become fixtures notwithstanding the manner in which the System is or may be attached, physically mounted or adhered to any structures, buildings, fixtures or other real property of Sublessor, and Sublessor shall have no right, title or interest in any System nor in any System Assets or System Attributes.

(i) Sublessee may grant or cause to be granted to its Financing Party(s) a security interest in the System and Sublessor expressly subordinates any rights it may have in the System, at any time and from time to time whether pursuant to this Sublease, at law or in equity or otherwise. Sublessee may file one or more informational financing statements or fixture filings in such jurisdictions as it deems appropriate with respect to the System in order to establish public record of its rights in the System or in connection with the grant of a security interest in the System to any of its Financing Parties, including but not limited to a memorandum of lease. Sublessor may file one or more informational financing statements or fixture filings in such jurisdictions as it deems appropriate with respect to the System in order to establish public record of its rights in the System as Sublessor.

(b) Sublessor's Rights and Responsibilities. Sublessor shall at all times retain a valid leasehold interest with the beneficial owner of the Subleased Premises and in no event shall anyone claiming by, through or under Sublessee have any rights in or to the Subleased Premises or any improvements thereon (other than the System and all System Assets or pursuant to Sublessee's rights in the Subleased Premises under this Sublease) at any time. Neither Sublessee nor its Financing Parties(s) shall take any action which may subject the Subleased Premises, Sublessor's interest in the Subleased Premises, or any real or personal property of Sublessor or the beneficial record title holder of the Subleased Premises to any lien, encumbrance, mortgage, or deed of trust.

(i) Sublessor may grant or cause to be granted to its Financing Party(s) a security interest in the Subleased Premises and improvements thereon (other than the System and all System Assets or pursuant to Sublessee's rights in the Subleased Premises under this Sublease) and, provided such Financing Party of Sublessor executes an NDA pursuant to Section 8(d), Sublessee expressly disclaims and waives any rights it may have in the Subleased Premises and improvements thereon (other than the System and all System Assets or pursuant to Sublessee's rights in the Subleased Premises under this Sublease) at any time whether pursuant to this Sublease, at law or in equity.

(c) Notwithstanding the System's presence on the Subleased Premises, (i) Sublessor shall not directly or indirectly cause, create, incur, assume or suffer to exist any Encumbrance on or with respect to the System or any interest therein. Sublessor also shall pay promptly before a fine or penalty may attach to the System any taxes, charges or fees of whatever type of any relevant governmental authority for which Sublessor is solely responsible and (ii) Sublessee shall not directly or indirectly cause, create, incur, assume or suffer to exist any Encumbrance on or with respect to the Subleased Premises or improvements thereon (other than the System) or any interest therein. Sublessee also shall pay when due before a fine or penalty may attach to the Subleased Premises or any improvements thereon (including the System or pursuant to Sublessee's rights under this Sublease) any taxes, charges or fees of whatever type of any relevant governmental authority for which Sublessee or its contractors are responsible. If a Party breaches its obligations under this Section 6(c), it shall immediately notify the other Party in writing, shall cause such liens to be satisfied, discharged and released of record (by bonding over or otherwise) within ten (10) days after it receives knowledge of such lien without cost

to the other Party, and, to the extent permitted by law, shall indemnify the other Party against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in connection therewith. If a Party fails to satisfy, discharge and release a lien as required by this Section 6(c), the other Party may do so at the sole cost and expense of the responsible Party.

7. **Maintenance; Repair.** Sublessee at Sublessee's sole expense shall maintain the System and the Subleased Premises in good condition and repair in accordance with applicable contractor, subcontractor and vendor warranties and guarantees and manufacturers' instructions and specifications, all Applicable Laws and applicable standards, all applicable good utility practices, and the terms of this Sublease. All such maintenance performed by Sublessee shall be done in a good and workmanlike manner pursuant to all Building and Electrical Permits. Sublessee may, at its option and expense, install security lighting on the Subleased Premises, provided that (a) the location of such lighting shall be mutually agreed upon in writing by Sublessor and Sublessee, (b) Sublessee shall maintain such lighting in good condition and repair in accordance with applicable contractor, subcontractor and vendor warranties and guarantees and manufacturers' instructions and specifications, all Applicable Laws and applicable standards, and the terms of this Sublease and (d) Sublessee shall repair any damage caused to the System or the Subleased Premises by the installation, maintenance and existence of such lighting at Sublessee's sole cost and expense.

8. **Representations and Warranties, Covenants of Sublessor.** Sublessor represents and warrants that:

a) **Authorization.** Sublessor (i) has been duly authorized to enter into this Sublease by all necessary action and (ii) by entering this Sublease will not be in default under any agreement to which it is a party (including any financing, security or leasing arrangement with respect to the Subleased Premises) or any valid order of any court, or regulatory agency or other body having authority to which Sublessee is subject.

b) **Sublessor's Interest in Subleased Premises.** Sublessor has a valid leasehold interest in the Subleased Premises, and, upon keeping and performing each and every covenant, agreement, term, provision and condition herein contained on the part and on behalf of Sublessee to be kept and performed, Sublessee shall have quiet and peaceful possession and quiet enjoyment of the Subleased Premises free from any claim of any Person of superior title thereto throughout the term of this Sublease. In event of an assignment or transfer by Sublessor of its interest in this Sublease, the same shall operate to release Sublessor from any future liability upon any of the covenants or conditions, express or implied, contained in this Sublease in favor of Sublessee, and in such event Sublessee agrees to look solely to the successor in interest of the Sublease in and to this Sublease, provided that Sublessor shall cause any such successor in interest to execute and deliver to Sublessee a document pursuant to which such successor in interest shall assume all of Sublessor's rights and obligations under this Sublease. This Sublease shall not be affected by any sale or transfer of the Subleased Premises.

c) **No Interference With and Protection of System.** Sublessor shall not conduct activities on or about the Subleased Premises, which have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System or its Energy Output.

i) Sublessor shall not attempt to modify, repair, replace, or otherwise interfere with the System or any System Assets (and shall not authorize any third party to do so).

d) Non-Disturbance Agreement. This Sublease is subject and subordinate in all respects to any underlying leases, ground leases, licenses or agreements, and to all mortgages which may now or hereafter be placed on or affect such leases, licenses or agreements or the land or the Subleased Premises and also to all renewals, modifications, consolidations and extensions of such underlying leases, ground lease, licenses, agreements, and mortgages. Sublessor shall obtain a subordination and non-disturbance agreement (“NDA”) from any third party who holds an interest in, or Encumbrance on, the Subleased Premises including without limitation, any Financing Parties to Sublessor or transferees or mortgagees of the Subleased Premises, which NDA shall (a) acknowledge and consent to the Sublessee’s rights in the Subleased Premises, and represent that the third party will not interfere with Sublessee’s rights in the Sublease Premises (b) acknowledge that the third party has no interest in the System and shall not gain any interest in the System by virtue of the Parties’ performance or breach of this Sublease and (d) subordinates any interest the third party may have in and to the System that is or may from time to time hereafter be located at the Subleased Premises. In addition, prior to granting any future interest in, or Encumbrance on, the Subleased Premises, Sublessor shall obtain an NDA from the third party.

e) Insolation. Sublessor acknowledges and agrees that access to sunlight (“Insolation”) is essential to the value to Sublessee of the leasehold interest granted hereunder and is a material inducement to Sublessee in entering into this Sublease. Accordingly, Sublessor shall not permit any interference with Insolation at the Subleased Premises, including, without limitation, due to the installation, maintenance or existence of plants. Without limiting the foregoing, Sublessor shall not do any of the following if doing so would in Sublessee’s reasonable determination adversely affect the Insolation levels at the Subleased Premises: i) construct or permit to be constructed any structure on the Subleased Premises, ii) emit or permit the emission of suspended particulate matter, smoke, fog or steam or other air-borne impediments. If Sublessor becomes aware of any potential development or other activity on nearby properties that could adversely affect the Insolation to the Subleased Premises, Sublessor shall promptly provide Sublessee with notice of such information and reasonably cooperate (at no cost to Sublessor) with Sublessee’s measures to preserve existing levels of Insolation at the Subleased Premises. Notwithstanding any other provision of this Sublease, the Parties agree that (i) Sublessee shall be irreparably harmed by a breach of the provisions of this Section 8(e), (ii) an award of damages shall be inadequate to remedy such a breach, and (iii) Sublessee shall be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 8(e).

f) Interconnection Access. Sublessor shall grant or reasonably assist Sublessee in securing any easements or other property access rights reasonably required by the local utility or other governing authority to interconnect the System to the local utility grid.

g) Hazardous Materials. The parties acknowledge that as of the Effective Date of this Sublease there have been certain substances, chemicals, and/or wastes, identified as hazardous, toxic or dangerous materials previously and currently present on, in, or under the Subleased Premises. Notwithstanding the foregoing, after the Effective Date, Sublessor shall not introduce or use any hazardous, toxic or dangerous materials on, in or under the Subleased Premises in violation of any Applicable Law that are not already on the Subleased Premises as of the Effective Date. If Sublessor becomes aware of any such hazardous, toxic or dangerous materials entering upon the Leased Premises after the Effective Date, Sublessor shall promptly notify Sublessee of the type and location of such materials in writing. Sublessor agrees to assume full responsibility for (and protect, indemnify and defend Sublessee against) any liability or cleanup obligations for any contamination or pollution or

breach of environmental laws related to the use of any hazardous, toxic, or dangerous materials placed upon, in or under the Subleased Premises after the Effective Date that are solely attributable to the actions of Sublessor or Sublessor's agents after the Effective Date.

**9. Representations and Warranties, Covenants of Sublessee.** Sublessee represents and warrants that:

(a) Authorization; Enforceability. Sublessee (i) has been duly authorized to enter into this Sublease by all necessary action and (ii) by entering this Sublease will not be in default under any agreement to which it is a party or any valid order of any court, or regulatory agency or other body having authority to which Sublessee is subject.

(b) Hazardous Materials. Sublessee shall not introduce or use any hazardous, toxic or dangerous materials on, in or under the Subleased Premises in violation of any Applicable Law. If Sublessee becomes aware of any such hazardous, toxic or dangerous materials, Sublessee shall promptly notify Sublessor of the type and location of such materials in writing. Sublessee agrees to assume full responsibility for (and protect, indemnify and defend Sublessor against) any liability or cleanup obligations for any contamination or pollution or breach of environmental laws related to the use of any hazardous, toxic or dangerous materials on, in or under the Subleased Premises that are directly attributable to the actions of Sublessee.

(c) Damage Due to System. Sublessee shall pay any costs incurred by Sublessor to repair damage to the Subleased Premises or Subleased Premises that are directly and solely attributable to the installation, operation or removal of the System, provided that prior to the repair of any such damage, (i) Sublessor provides Sublessee (and its employees, agents and contractors) the opportunity to inspect such damage, and (ii) review in advance of its execution any contract to repair it. Notwithstanding the foregoing to the contrary, Sublessee shall not be liable for any costs incurred by Sublessor to repair damage to any plants even if caused by Sublessee (or its employees, agents or contractors).

(d) Compliance with Site Lease. At no time during the Term shall Sublessee take any action that would cause Sublessor to be in breach or violation of any provision contained in the Site Lease, and such action causing Sublessor to be in breach or default of the Site Lease shall be deemed a material breach and default of this Sublease, and Sublessee shall indemnify and hold Sublessor harmless from any and all claims, costs, damages or expenses of any type or kind arising therefrom. Sublessee shall further be responsible for and assumes all obligations of Sublessor under the Site Lease, a copy of which is attached hereto as Exhibit C.

**10. Insurance.**

(a) At all times commencing on the date Sublessee or its contractors start construction of the System, Sublessee shall carry and maintain, at its sole cost and expense, the following insurance coverages:

(i) commercial general liability insurance with a broad form endorsement, or then comparable equivalent ISO forms and coverage, applicable to the Subleased Premises and its appurtenances providing, on an occurrence basis, a minimum combined single limit of One Million Dollars (\$1,000,000.00), including but not limited to, coverages for bodily injury, property damage, and contractual liability, and coverages for any and all injury resulting from any act or omission on the part of Sublessee or Sublessee's contractor's, licensees, agents, visitors or employees, on or about the

Subleased Premises including such claims arising out of the construction of improvements on the Subleased Premises, with no deductible in excess of Fifty Thousand Dollars (\$50,000.00);

(ii) workers compensation insurance covering all persons employed in connection with the construction of any improvements by Sublessee and the operation of its business upon the Subleased Premises in accordance with Applicable Laws; and

(iii) special form (or its then-comparable equivalent ISO form) property insurance written at replacement cost value and with an agreed amount endorsement sufficient to avoid coinsurance covering the System and all Systems Assets. No deductible shall be in excess of Fifty Thousand Dollars (\$50,000.00). This insurance policy shall also insure direct or indirect loss of Sublessee's earnings attributable to Sublessee's inability to use fully or obtain access to the Subleased Premises. Sublessee shall use commercially reasonable efforts to cause this insurance policy to provide that it will not be cancelled or materially changed unless at least 30 days' notice thereof has been provided to Sublessor.

(b) At all times commencing on the date Sublessee or its contractors start construction of the System, Sublessee shall carry and maintain, at its sole cost and expense, the insurance coverages set forth in this Section 10. By requiring insurance herein, neither Party represents that coverage limits will necessarily be adequate to protect the other and such coverage and limits shall not be deemed as a limitation on either Party's liability under the indemnities granted in this Sublease.

(c) At all times during the Term, Sublessor shall carry and maintain, at its sole cost and expense, the following insurance coverages:

(i) commercial general liability insurance with a broad form endorsement, or then comparable equivalent ISO forms and coverage, applicable to the Subleased Premises and its appurtenances including, without limitation, the Other System Space and the Common Areas, providing, on an occurrence basis, a minimum combined single limit of One Million Dollars (\$1,000,000.00), including but not limited to, coverages for bodily injury, property damage, and contractual liability, and coverages for any and all injury resulting from any act or omission on the part of Sublessor or Sublessor's contractor's, licensees, agents, visitors or employees, on or about the Subleased Premises, with no deductible in excess of Fifty Thousand Dollars (\$50,000.00);

(ii) special form (or its then-comparable equivalent ISO form) property insurance written at replacement cost value and with an agreed amount endorsement sufficient to avoid coinsurance covering the Subleased Premises. No deductible shall be in excess of Fifty Thousand Dollars (\$50,000.00). Sublessor shall use commercially reasonable efforts to cause this insurance policy to provide that it will not be cancelled or materially changed unless at least 30 days' notice thereof has been provided to Sublessee.

(d) Either Party shall give prompt notice to the other in case of fire or other casualty or accidents at the Subleased Premises, or of defects therein or in the figures or equipment.

**11. Taxes.** The Parties agree that the System is the personal property of the Sublessee and not a fixture to the Subleased Premises, and Sublessee shall pay all personal property taxes levied on the System, but Sublessee shall not be responsible for any real estate taxes or assessments with respect to the Subleased Premises. If real estate taxes or assessments are ever assessed with respect to the



Subleased Premises, then Sublessor or the record title holder of the Subleased Premises shall be responsible for payment thereof.

**12. Liability and Indemnity.**

(a) Each Party shall indemnify, hold harmless and defend the other Party, its officials, officers, employees, including its past, present, and future board members, elected officials and agents (collectively, the "Indemnified Parties") from and against all liability, claims, suits, causes of action, demands, proceedings, set-offs, liens, attachments, debts, actual out-of-pocket expenses, judgment, or other liabilities including actual out-of-pocket costs, reasonable fees and expense of defense, arising from any loss, damage, injury, death, or loss or damage to property, of whatsoever kind or nature (except as set forth in Section 12(c) below) to the extent arising from any breach by the indemnifying Party of any covenant, representations or warranties made within this Sublease (collectively, the "Claims"), except to the extent such Claims result from the gross negligence or willful misconduct of any Indemnified Party.

(b) Nothing contained herein shall be construed as prohibiting Sublessor, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Sublessor's participation in its defense shall not remove Sublessee's duty to indemnify, defend, and hold Sublessor harmless, as set forth above.

(c) Notwithstanding any provision in this Sublease to the contrary, neither Sublessee nor Sublessor shall be liable to the other for damages arising out of this Sublease which are not reasonably foreseeable as of the Effective Date, including indirect, special, incidental, exemplary, or consequential loss or damage of any nature (including, without limitation, lost revenues, lost profits, lost business opportunity or any business interruption). The foregoing provision shall not prohibit either Party from seeking and obtaining recovery of third party damages for which it is entitled to indemnification hereunder, or ii) general contract damages for a breach of this Sublease.

(d) Notwithstanding any other provision herein, nothing herein shall be deemed or interpreted to be a waiver of any and all rights and protections set forth in Section 893.80, Wis. Stats.

**13. Casualty or Condemnation.** In the event the Subleased Premises or the Subleased Premises shall be so damaged or destroyed so as to make the use of the Subleased Premises impractical as reasonably determined by Sublessee, then Sublessee may at any time provide notice to the other that fifteen (15) Business Days following the delivery of such notice this Sublease shall effectively terminate subject to Sections 2(b) and 2(e). If Sublessee does not elect to terminate this Sublease pursuant to the previous sentence, Sublessee shall exercise commercially reasonable efforts to repair and restore the Subleased Premises and the System to its condition prior to such damage or destruction to the extent required by the PPA. If Sublessee does elect to terminate this Sublease, Sublessee shall at its sole cost and expense remove all above-ground and below ground System components from the Subleased Premises pursuant to Section 2(b) herein.

**14. Assignment.**

a) Sublessee's Assignment. Sublessee shall not assign or pledge this Sublease or sublet the whole or any part of the Subleased Premises, whether voluntarily or by operation of law, or permit the use or occupancy of the Subleased Premises by anyone other than Sublessee, and shall not make, suffer or permit any such assignment, subleasing or occupancy, without the prior written consent of Sublessor (in Sublessor's sole and absolute discretion), which restrictions shall be binding upon any and all assignees of this Sublease and subtenants of the Subleased Premises. Notwithstanding the foregoing, Sublessee may, in its sole discretion, assign any of its rights, duties or obligations under this Lease (i) to one or more of its Affiliates (as defined below), purchaser of the System, or successor in interest, or (ii) to one or more third parties for collateral purposes in connection with any debt or equity financing involving the System, Lessee or Lessee's Affiliates.

b) Assignment to Sublessee's Financing Party. With respect to an assignment pursuant to clause (a)(ii) above, Sublessor acknowledges and agrees that, upon receipt of written direction by any Financing Party of Sublessee, Sublessor will recognize Financing Party or any third party to whom Financing Party has reassigned the rights of Sublessee under this Sublease, as the proper and lawful Sublessee of the Subleased Premises and as the proper and lawful successor to this Sublease. Sublessor shall be protected and shall incur no liability in acting in good faith upon any such written direction by Financing Party which Sublessor shall in good faith believe (i) to be genuine and (ii) a copy of which to have been delivered to Sublessee. Sublessor shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such foregoing direction, but may accept and rely upon them as conclusive evidence of the truth and accuracy of such statements.

c) Sublessee's Assignees. Any assignee from Sublessee shall agree to and shall assume in writing the obligations of the Sublessee under this Sublease and shall be bound by the terms of this Sublease. Notwithstanding such approved assignment, sublease, or transfer of this Sublease by Sublessee, Sublessee shall remain liable for all obligations of Sublessee pursuant to this Sublease.

**15. Provisions Benefiting Financing Party.**

a) In connection with any financing or refinancing of the System with the Sublessee's financing parties (whether debt or equity), collateral assignees or mortgages (collectively "Financing Parties"), Sublessor shall agree upon a consent to collateral assignment of this Sublease and estoppel certificate that shall be in form and substance agreed to by both Sublessee and Financing Parties, which assignment shall include among other terms and conditions the following provisions.

i. The Parties shall not amend or modify this Sublease in any material respect without the prior written consent of the Financing Parties;

ii. Whenever Sublessor is required to provide notice to Sublessee pursuant to the default provisions of Section 16, Sublessor shall give concurrent written notice to any Financing Parties which Sublessor has been provided written notice of;

iii. Financing Parties shall have the right, but not the obligation, to cure an Event of Default on behalf of Sublessee in accordance with the provisions of this Sublease, provided that Financing Parties shall be provided an additional time period (as to be agreed to in a consent to collateral assignment) from the end of the cure periods provided in Section 16, to effect a cure of such Event of Default; and

b) Sublessee shall from time to time as required provide Sublessor with written notice of any Financing Parties and provide contact information therefor for notice purposes. Upon receipt of such notice, Sublessor shall recognize a particular entity as a Financing Party and will accord to such entity all the rights and privileges of a Financing Party hereunder.

c) Notice of Default. As a precondition to exercising any rights or remedies as a result of any default or alleged default by Sublessee, Sublessor shall deliver a duplicate copy of any applicable notice of an Event of Default (a “Notice of Default”) to each Financing Party concurrently with delivery of such notice to Sublessee, specifying in detail the alleged Event of Default and the required remedy, provided Sublessor was given written notice of such Financing Party as provided hereunder.

d) Liability. Except as may otherwise be provided in a consent to collateral assignment as contemplated in this Section 15, a Financing Party that does not directly hold an interest in this Sublease, or that holds a lien, shall have no obligations under this Sublease prior to the time that such Financing Party succeeds to absolute title to such interest or after the time that such Financing Party no longer has ownership of such interest.

e) Subordination of Lien. Subject to the terms and conditions hereof, Sublessor hereby subordinates any lien or security interest (or claim arising therefrom) it may have in and to any System Assets to any lien or security interest (or claim arising therefrom) of any Financing Party in such System Assets; provided, however, that this subordination shall not prevent Sublessor from exercising any right or remedy against Sublessee to which Sublessor may be entitled under this Sublease or as may be provided by Applicable Law; nor shall it prevent Sublessor from realizing upon any lien it may have on any System Assets, so long as Sublessor recognizes Financing Party’s prior right as described above. Sublessor further agrees to notify any purchaser of the Subleased Premises, and any subsequent mortgagee or other encumbrance holder, of the existence of the foregoing subordination of Sublessor’s lien, which shall be binding upon the executors, administrators, successors and transferees of Sublessor, and shall inure to the benefit of the successors and assigns of Financing Party. Sublessor shall execute a subordination, non-disturbance and attornment agreement with Financing Parties in a commercially reasonable form.

## **16. Defaults and Remedies.**

a) Default. An “Event of Default” shall occur if a Party (the “Defaulting Party”) fails to perform any obligation or covenant hereunder and such failure is not cured within thirty (30) days for any monetary obligation or within sixty (60) days for any non-monetary obligation after receiving written notice from the other Party (the “Non-Defaulting Party”); provided, however, that if the nature or extent of the obligation or obligations or cure is such that more than sixty (60) days are required, in the exercise of commercially reasonable diligence, for performance of such obligation(s), then the Defaulting Party shall not be in default if it commences such performance within ten (10) days following receipt of such notice and thereafter continues to pursue the same through to completion with commercially reasonable diligence.

b) Remedies. During any period where an Event of Default has occurred and is outstanding, the Non-Defaulting Party shall be entitled to: (i) by written notice to the Defaulting Party, designate a date not earlier than ten (10) Business Days and not later than thirty (30) Business Days after the date such notice is delivered as an early termination date with respect to this Sublease (the “Default Termination Date”) and this Sublease shall terminate at midnight Central Standard time on

the Default Termination Date; and (ii) exercise any and all remedies available to it at law or in equity, all of which remedies shall be cumulative.

c) Performance Excused by Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Sublease and such Party (the "Claiming Party") gives written notice containing details of the Force Majeure to the other Party as soon as practicable (and in any event within ten (10) Business Days after the Force Majeure first prevents performance by the Claiming Party), then the Claiming Party will be excused from the performance of its obligations (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). Notwithstanding the above, any Party affected by a Force Majeure will use commercially reasonable efforts to eliminate or avoid the Force Majeure and to resume performing its obligations as soon as reasonably possible; provided however, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion.

**17. Notices.** Any notice required by or provided for in this Sublease shall be made to the addresses and persons set forth below. All notices shall be delivered by hand delivery, or confirmed receipt delivery via US Postal Service or commercial carrier. Notice will be deemed to have been received when delivered. A Party may change its address by providing notice of the same in accordance with the provisions of this section.

If to Sublessor:

Manitowoc Public Utilities  
Attn: General Manager  
1303 South 8th Street  
Manitowoc, WI 54220

With copy to:

Steimle Birschbach, LLC  
Attn: Atty. Andrew J. Steimle  
PO Box 2225  
Manitowoc, WI 54221-2225

If to Sublessee:

Mr. Eric Peterman  
c/o GRNE Solar  
230 N Hicks Place,  
Palatine, IL 60067  
E-Mail: [Eric@GRNESolar.com](mailto:Eric@GRNESolar.com)

With copy to:

Justin D. Markell  
Winthrop & Weinstine, P.A.  
225 South Sixth Street, #3500

Minneapolis, MN 55402  
Email: [jmarkell@winthrop.com](mailto:jmarkell@winthrop.com)

18. **Non-Waiver.** No failure or delay by either Party in exercising any right, power, privilege, or remedy hereunder will operate as a waiver thereof. Any waiver must be in a writing signed by the Party making such waiver, and such waiver shall not be deemed to be a waiver of any subsequent breach of the same, or any other term, condition, or provision contained herein.

19. **No Third Party Beneficiaries.** This Sublease is solely for the benefit of the Parties hereto and no right or cause of action shall accrue by reason hereof for the benefit of any third party not a party hereto, other than the Indemnified Parties and any secured parties, including the Financing Parties.

20. **Headings.** The headings in this Sublease are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Sublease.

21. **Choice of Law.** This Sublease shall be construed in accordance with the laws of the State of Wisconsin without regard to its conflict of laws principles. The Parties agree that the venue for any legal proceedings between them shall be the Circuit Court of Manitowoc County, Wisconsin. Sublessor and its respective present and former directors, commissioners, committee members, officers, appointees, employees, agents, and independent contractors shall have the same privileges with respect to the limitation of, and exemption and immunity from, liability as are provided in the local government immunity provisions of Wisconsin law, as applicable. Notwithstanding anything in this Agreement to the contrary, no provision of this Sublease is intended, or shall be construed to be a waiver by either Party of the provisions of Wis. Stat. § 893.80, or any other applicable limits on municipal liability.

22. **Binding Effect.** This Sublease and its rights, privileges, duties and obligations shall inure to the benefit of and be binding upon each of the Parties, together with their respective successors and permitted assigns.

23. **Counterparts.** This Sublease may be executed in counterparts, which shall together constitute one and the same agreement. A signature on a copy of this Sublease received by either Party by facsimile or in electronic format (e.g., “pdf” or “tif”) is binding upon the other Party as an original. Both Parties agree that a photocopy of such facsimile or such electronic format may also be treated by the Parties as a duplicate original.

24. **Entire Sublease; Amendments.** This Sublease, together with the consideration provided by the PPA, and Sublessee’s obligation to comply with all terms of the the Site Lease represent the full and complete agreement between the Parties with respect to the subject matter contained herein and supersedes all prior written or oral agreements between said parties with respect to said subject matter. Sublease may be amended only in writing signed by Sublessee and Sublessor or their respective successors in interest.

25. **Further Assurances.** Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition, or delay its compliance with any reasonable request made pursuant to this section. At the request of Sublessee, Sublessor agrees to execute and deliver in recordable form

a copy of this Sublease (or a memorandum of this Sublease in a form mutually agreeable to both Parties) for recording in the title records of the county where the Subleased Premises are located or other applicable government office.

**26. Estoppel.** Either Party shall, without charge, within five (5) Business Days after receipt of a written request by the other Party deliver a written instrument, duly executed, certifying to the requesting Party, or any other Person specified by the requesting Party:

a) That this Sublease is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification;

b) Whether or not to the knowledge of any such Party there are then existing any offsets or defenses in favor of such Party against enforcement of any of the terms, covenants and conditions of this Sublease and, if so, specifying the same and also whether or not to the knowledge of such Party the other Party has performed all of the terms, covenants and conditions on its part to be performed, and if not, specifying the same; and

c) Such other information as may be reasonably requested by a Party.

Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

**27. Omitted.**

**28. Attorneys' Fees.** If any action brought in law or equity with respect to this Sublease, arbitration, judicial reference or other proceeding is instituted between the Parties in connection with this Sublease, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' and experts' fees and costs incurred in bringing or defending such action or proceeding (at trial and on appeal) and/or enforcing any judgment granted therein. The prevailing Party shall be determined based upon an assessment of which Party's major arguments or positions taken in the proceedings could fairly be said to have prevailed over the other Party's major arguments or positions on major disputed issues as the Party prevailing by seventy-five percent (75%) or more of damages or relief sought in any action brought pursuant to this Sublease.

**29. Non-Discrimination.** Sublessee, its officers, employees, and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations.

**30. Certification.** Sublessee certifies by signing the Sublease that Sublessee, its parent companies, subsidiaries, and affiliates have not been convicted of, or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act. 15 U.S.C. § 1 et seq.

[Signatures on the following page]

**IN WITNESS WHEREOF**, the Parties have executed this Sublease as of the Effective Date.

**SUBLESSOR**

**Manitowoc Public Utilities**

By: \_\_\_\_\_

Name: Troy Adams

Title: General Manager

**SUBLESSEE**

**[Project Company]**, LLC, an Illinois limited liability company

By: \_\_\_\_\_

Name: Eric Peterman

Title: CEO

[ADD CORPORATE GUARANTY LANGUAGE]

## EXHIBIT A

### SCHEDULE OF DEFINITIONS

Definitions. The definitions provided below and elsewhere in this Sublease will apply to the defined terms used in this Sublease.

“Affiliate” means, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity.

“Applicable Law” means, with respect to any governmental authority, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, governmental approval, consent or requirement of such governmental authority, enforceable at law or in equity, along with the interpretation and administration thereof by any governmental authority.

“Assumptions and Exclusions” shall have the meaning ascribed in the PPA.

“Building and Electrical Permits” means all permits, licenses, registrations and approvals required to install and construct the System on the Subleased Premises whether required by any Applicable Law, utility, transmission or distribution provider or any other regulatory entity. The Interconnection Agreement is excluded from this definition.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

“COVID” means (A) the novel coronavirus SARS-CoV-2 and the associated disease named by the World Health Organization as “COVID-19” and declared by the World Health Organization to be a global pandemic on March 11, 2020; and (B) any mutation, strain, or variant of COVID-19 or any disease associated with such mutation, strain, or variant.

“COVID Impacts” means (A) measures taken by a governmental authority in connection with COVID, including quarantines and/or the enactment, promulgation, modification, or repeal after the Effective Date of any Applicable Law as a result of COVID; or (B) circumstances related to COVID that delay the System installation or increase Supplier’s cost to install or operate the System (including disruption in production supply chains, transportation facilities or services, labor or other human resources, utility services, or other resources necessary for the construction, installation, and operation of the System).

“Default Termination Date” shall have the meaning ascribed to it in Section 16(b).

“Defaulting Party” shall have the meaning ascribed to it in Section 16(a).

“Emergency” shall have the meaning ascribed to it in Section 5(d).

“Encumbrance” means any mortgage, pledge, lien (including mechanics’, labor or materialman’s lien), charge, security interest, or other encumbrance or claim, other than those interests which Sublessee, as “Seller” under the PPA is permitted by law to place on the Subleased Premises due to non-payment under the PPA, or which liens or interests Sublessee has in the System pursuant to the UCC or other applicable law.



“Energy Output” shall have the meaning ascribed in the PPA.

“Event of Default” shall have the meaning ascribed to it in Section 16(a).

“Financing Party” shall have the meaning ascribed to it in Section 15(a).

“Force Majeure” means any event or circumstance that (i) is not within the reasonable control, or the result of the negligence, of the Claiming Party, and (ii) by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. This definition shall include, without limitation, (i) sabotage, riots or civil disturbances, (ii) acts of God, (iii) acts of the public enemy, (iv) acts of vandalism, (v) terrorist acts affecting the Subleased Premises, (vi) flood, ice storms, explosion, fire, lightning, or similarly cataclysmic occurrence, (vii) requirement by local electric utility that the System curtail or discontinue operation for any reason (excluding any breach of the Interconnection Agreement with such utility), (viii) COVID Impacts, pandemics and epidemics, (ix) appropriation or diversion of electricity by sale or order of any governmental authority having jurisdiction thereof, or (x) any other action by any governmental authority which prevents or prohibits the Parties from carrying out their respective obligations under this Agreement. This definition shall not include economic hardship of either Party and shall not include (except to the extent that arising from an independent event of Force Majeure): (i) equipment failure, (ii) acts or omissions of Sublessee’s contractors or agents, or (iii) changes in costs of services, materials, labor.

“Indemnified Parties” shall have the meaning ascribed to it in Section 12(a).

“Insolation” shall have the meaning ascribed to it in Section 8(e).

“Interconnection Agreement” means any agreement required for the interconnection of the System with the local electric utility and the resale of excess power to the local utility.

“Subleased Premises” shall have the meaning ascribed to it in Section 1(a).

“NDA” shall have the meaning ascribed to it in Section 8(d).

“Non-Defaulting Party” shall have the meaning ascribed to it in Section 16(a).

“Notice of Default” shall have the meaning ascribed to it in Section 15(c).

“Other System Space” shall have the meaning ascribed to it in Section 1(a).

“PPA” shall have the meaning ascribed to it in the recitations section of this Sublease.

“Premises” shall have the meaning ascribed to it in the recitations section of this Sublease.

“System” shall have the meaning ascribed to it in the recitations section of this Sublease.

“System Assets” means the each and all of the assets of which the System is comprised, including solar energy panels, mounting systems, energy monitoring systems, inverters, monitoring systems, metering devices, disconnects, boxes, integrators and other related equipment installed on the Subleased Premises, electric lines required to connect such equipment to the Subleased Premises, protective and

associated equipment, improvements, and other tangible and intangible assets (excepting the System Attributes), permits, property rights and contract rights required for the installation, construction, operation, and maintenance of the System.

“System Attributes” means the Environmental Attributes and the Tax Attributes (collectively, or individually, as the case may be), as each term is defined in the Sublease.

“Term” shall have the meaning ascribed to it in Section 2(a).

**EXHIBIT B**

**DESCRIPTION OF SUBLEASED PREMISES**

“Subleased Premises” are located at **[address]** and consist of:

**[Legal description]**

And depicted graphically as follows. Any conflict between the legal description above and the graphic depiction below shall be resolved in favor of the written legal description.

**[Diagram of premises]**

**EXHIBIT C  
SITE LEASE**

**[TO BE ATTACHED]**