

Site Lease For Solar Installation

This SITE LEASE FOR SOLAR INSTALLATION (this “Lease”), dated as of **[DATE]**, 2022 (the “Effective Date”) is by and between **Manitowoc Public Utilities, a Wisconsin municipal utility** (“Lessee”), and **the City of Manitowoc** (“Lessor”). Lessor and Lessee are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

WITNESSETH

WHEREAS, Lessor is the owner of the site located at 3122 Hecker Road, and more particularly described in Exhibit B (the “Leased Premises”);

WHEREAS, in connection with the foregoing, Lessee desires to lease the Leased Premises for purposes of its sublessee, **[SUBLESSEE ENTITY]** (“Sublessee”) constructing, installing, operating and maintaining a photovoltaic solar energy generation facility (the “System”) on the Leased Premises and Lessor is willing to grant such lease to Lessee;

WHEREAS, Lessee and Sublessee have entered or will enter into that certain Site Sublease For Solar Installation (“Sublease”) and Lessor acknowledges that it has reviewed and approves of the Sublease;

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

1. Leased Premises and Related Rights.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, in accordance with the terms and conditions hereinafter set forth, the Leased Premises for the purposes set forth in this Lease. The Leased Premises shall include reasonable access and use on a non-exclusive basis, in accordance with the terms and conditions in this Lease, to such additional areas adjacent to the Leased Premises necessary for the interconnection of the System and System Assets (as defined below) with the utility (the “Other System Space”). In addition, Lessee, Sublessee, and their invitees shall have the right to use, in common with Lessor and other tenants, those applicable areas adjacent to the Leased Premises, including the entrances, roads, driveways, and other similar areas which enable Lessee and Sublessee to obtain full use and enjoyment of the Leased 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 Leased Premises.

(b) Lessor 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 the Sublease.

(c) Lessor covenants that Lessee shall have peaceful and quiet enjoyment of the Leased Premises during the Term (as defined below) of this Lease. This Lease is intended to run with the Leased Premises and shall survive any sale, assignment, or transfer of the Leased Premises by Lessor.

2. Term and Termination.

(a) Term. The term of this Lease shall commence on the Effective Date and shall expire commensurate with the expiration of the term set forth in the Sublease (the "Term").

(b) Removal of System. Lessee shall be responsible for the removal of the System from the Leased Premises within 180 days following the expiration or earlier termination of this Lease. Lessor shall provide Lessee, Sublessee, its agents, employees, and consultants access at all reasonable times to the Leased Premises and the System for purposes of such removal and Lessee shall repair any damage caused to Leased Premises by the removal of the System at Lessee's sole cost and expense.

(c) Early termination by Lessee. Notwithstanding any provision contained herein to the contrary Lessee may terminate this Lease without penalty by providing thirty (30) days written notice to Lessor within three hundred sixty-five (365) days of the Effective Date, if the Sublease is terminated.

(d) Effect of Termination. Effective upon the expiration or earlier termination of this Lease 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 Lease prior to termination including without limitation the obligation to remove the System, and, ii) that the obligations of the Parties under this Lease with respect to claims for indemnification based upon events or circumstances occurring or arising on or before the termination of this Lease shall survive for a period of two (2) years following any termination of this Lease.

3. Payments. The Parties agree and acknowledge that the consideration for this Lease shall be the mutual covenants and obligations of the Parties as set forth herein. Annual cash rent of One Dollar (\$1.00) and good and valuable other consideration shall be due from Lessee during the term of this Lease and the parties acknowledge that all cash rent for the Term has been prepaid by Lessee as of the Effective Date. In addition, Lessee shall be responsible for the entire cost of relocating materials currently on the Leased Premises to another property owned by Lessor, including any and all costs associated with preparing the property to store said materials in the same or similar manner in which they were stored on the Leased Premises.

4. Lessee's Work. Lessee shall ensure that Sublessee, at its sole expense, construct, install and operate or cause to be constructed, installed and operated the System at the Leased Premises, in a good and workmanlike manner, with reasonable diligence, and consistent with all applicable building codes and Building and Electrical Permits and consistent with the obligations in the Sublease.

5. Access to Leased Premises.

(a) During the Term, Lessor shall provide Lessee, Sublessee, and their respective employees, agents, consultants, contractors and sub-contractors and local utility personnel access to the Leased Premises, Other System Space, and all System Assets and any areas required to interconnect the System with the Leased 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 Lease. Lessor shall not withhold such access unreasonably.

(b) Notwithstanding any other provisions of this Lease, Lessee, Sublessee, and its employees, agents, consultants, contractors and sub-contractors and local utility personnel may enter and access the Leased Premises or outside portions of the Other System Space without prior notice, consent or accompaniment of the Lessor 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 Leased Premises (an “Emergency”). Upon learning of an Emergency, either Party shall as soon as practicable notify the other.

6. System and Output Ownership.

(a) Lessee’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 Lessor (including but not limited to any present or future mortgagee of the Leased 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 Lessor, and Lessor shall have no right, title or interest in any System nor in any System Assets or System Attributes.

(b) Lessor’s Rights and Responsibilities. Lessor shall at all times retain title to and be the legal and beneficial owner of the Leased Premises and in no event shall anyone claiming by, through or under Lessee or Sublessee have any rights in or to the Leased Premises or any improvements thereon (other than the System and all System Assets or pursuant to Lessee’s rights in the Leased Premises under this Lease) at any time. Neither Lessee nor Sublessee, nor any secured parties, shall take any action which may subject the Leased Premises, Lessor's interest in the Leased Premises, or any real or personal property of Lessor to any lien, encumbrance, mortgage, or deed of trust.

(c) Notwithstanding the System’s presence on the Leased Premises, (i) Lessor 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. Lessor 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 Lessor is responsible and (ii) Lessee shall not directly or indirectly cause, create, incur, assume or suffer to exist any Encumbrance on or with respect to the Leased Premises or improvements thereon (other than the System) or any interest therein. Lessee also shall pay when due before a fine or penalty may attach to the Leased Premises or any improvements thereon (including the System or pursuant to Lessee’s rights under this Lease) any taxes, charges or fees of whatever type of any relevant governmental authority for which Lessee, 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. Lessee shall be responsible to (or shall ensure Sublessee’s obligation to) maintain the System and the Leased 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, and the terms of this Lease. Lessee shall confirm that all such maintenance is performed by Sublessee is done in a good and workmanlike manner pursuant to all Building and Electrical Permits. Lessee (or Sublessee with Lessee's approval) may, at its option and expense, install security lighting on the Leased Premises, provided that (a) the location of such lighting shall be mutually agreed upon in writing by Lessor and Lessee (b) the installation, operation, maintenance and existence of such lighting shall not interfere with Sublessee's installation of the System or the generation of energy from the System, (c) Lessee 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 Lease and (d) Lessee shall repair any damage caused to the System or the Leased Premises by the installation, maintenance and existence of such lighting at Sublessee's sole cost and expense.

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

a) Authorization. Lessor (i) has been duly authorized to enter into this Lease by all necessary action and (ii) by entering this Lease 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 Leased Premises) or any valid order of any court, or regulatory agency or other body having authority to which Lessee is subject.

b) Lessor's Title to Leased Premises. Lessor has lawful title to the Leased Premises and, upon keeping and performing each and every covenant, agreement, term, provision and condition herein contained on the part and on behalf of Lessee to be kept and performed, Lessee shall have quiet and peaceful possession and quiet enjoyment of the Leased Premises free from any claim of any Person of superior title thereto throughout the term of this Lease. Lessor shall not sell or otherwise transfer the Leased Premises, unless Lessor shall have given Lessee at least fifteen (15) Business Days prior written notice thereof identifying the transferee, the Leased Premises to be so transferred and the proposed date of transfer. In event of a sale or transfer by Lessor of the Leased Premises, the same shall operate to release Lessor from any future liability upon any of the covenants or conditions, express or implied, contained in this Lease in favor of Lessee, and in such event Lessee agrees to look solely to the successor in interest of Lessor in and to this Lease, provided that Lessor shall cause any such successor in interest to execute and deliver to Lessee a document pursuant to which such successor in interest shall assume all of Lessor's rights and obligations under this Lease. This Lease nor the Sublease shall not be affected by any such sale or transfer.

c) No Interference With and Protection of System. Lessor shall not conduct activities on or about the Leased Premises, including the Leased Premises, which have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System or its energy output. Lessor 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 Lease 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 Leased Premises and also to all renewals, modifications, consolidations and extensions of such underlying leases, ground lease, licenses, agreements, and mortgages. Lessor shall obtain a subordination and non-

disturbance agreement (“NDA”) from any third party who holds an interest in, or Encumbrance on, the Leased Premises including without limitation, any secured parties or transferees or mortgagees of the Leased Premises, which NDA shall (a) acknowledge and consent to the Lessee’s rights in the Leased Premises, and represent that the third party will not interfere with Lessee’s rights in the Leased 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 Lease 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 Leased Premises. In addition, prior to granting any future interest in, or Encumbrance on, the Leased Premises, Lessor shall obtain an NDA from the third party.

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

f) Interconnection Access. Lessor shall grant or reasonably assist Lessee 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 Lease there have been certain substances, chemicals, and/or wastes, identified as hazardous, toxic or dangerous materials pursuant to previously and currently present on, in, or under the Leased Premises and such information is available as a public record. Notwithstanding the foregoing, after the Effective Date, Lessor shall not introduce or use any hazardous, toxic or dangerous materials on, in or under the Leased Premises in violation of any Applicable Law that are not already on the Leased Premises as of the Effective Date. If Lessor becomes aware of any such hazardous, toxic or dangerous materials entering upon the Leased Premises after the Effective Date, Lessor shall promptly notify Lessee of the type and location of such materials in writing. Lessor shall assume full responsibility and indemnify and hold harmless Lessee and Sublessee for (and protect, indemnity and defend Lessee 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 in, on, or under the Leased Premises prior to the Effective Date by any third party other than Lessee or Sublessee.

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

(a) Authorization; Enforceability. Lessee (i) has been duly authorized to enter into this Lease by all necessary action and (ii) by entering this Lease 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 Lessee is subject.

(b) Hazardous Materials. Lessee shall not introduce or use any hazardous, toxic or dangerous materials on, in or under the Leased Premises in violation of any Applicable Law. If Lessee becomes aware of any such hazardous, toxic or dangerous materials entering upon the Leased Premises by Lessee, Lessee shall promptly notify Lessor of the type and location of such materials in writing. Lessee agrees to assume full responsibility for (and protect, indemnify and defend Lessor 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 Leased Premises that are directly attributable to the actions of Lessee or its assigns, agents and contractors.

(c) Damage Due to System. Lessee shall pay any costs incurred by Lessor to repair damage to the Leased Premises that are attributable to the installation, operation or removal of the System, provided that prior to the repair of any such damage, (i) Lessor provides Lessee (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, Lessee shall not be liable for any costs incurred by Lessor to repair damage to any plants on the Leased Premises even if caused by Lessee (or its employees, agents or contractors).

(d) Obligations of Sublease. Lessee shall be responsible for Sublessee's compliance with all terms and obligations of Sublessee as set forth in this Lease and in the Sublease.

10. Insurance. At all times during the Term Lessee shall ensure that Lessee and Sublessee carry and maintain, at each party's sole cost and expense, the insurance coverages required under Section 10 of the Sublease.

11. Taxes. The Parties agree that the System is the personal property of the Sublessee and not a fixture to the Leased Premises, and Lessee shall ensure that Sublessee pays all personal property taxes levied on the System, but Lessee nor Sublessee shall be responsible for any real estate taxes or assessments with respect to the Leased Premises. If real estate taxes or assessments are ever assessed with respect to the Leased Premises, then Lessor shall be responsible for payment thereof.

12. Liability and Indemnity. 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 to the extent arising from any breach by the indemnifying Party of any covenant, representations or warranties made within this Lease (collectively, the "Claims"), except to the extent such Claims result from the negligence or willful misconduct of any Indemnified Party.

13. Casualty or Condemnation. In the event the Leased Premises shall be so damaged or destroyed so as to make the use of the Leased Premises impractical as reasonably determined by

Lessee, then Lessee may at any time provide notice to Lessor that fifteen (15) Business Days following the delivery of such notice this Lease shall effectively terminate subject to Sections 2(b) and 2(d). If Lessee does not elect to terminate this Lease pursuant to the previous sentence, Lessee shall exercise commercially reasonable efforts to repair and restore the Leased Premises and the System to its condition prior to such damage or destruction.

14. Assignment.

a) Lessee's Assignment. Lessor affirmatively approves and consents to the Sublease of the Leased Premises to Sublessee, a copy of which is attached hereto as Exhibit C. Except for the Sublease, Lessee shall not assign or pledge this Lease or sublet the whole or any part of the Leased Premises, whether voluntarily or by operation of law, or permit the use or occupancy of the Leased Premises by anyone other than Lessee or Sublessee, and shall not make, suffer or permit any such assignment, subleasing or occupancy, without the prior written consent of Lessor, which restrictions shall be binding upon any and all assignees of this Lease and subtenants of the Leased Premises. Notwithstanding the foregoing, Lessee 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) Lessee's Assignees. Any assignee from Lessee shall agree to and shall assume in writing the obligations of the Lessee under this Lease and shall be bound by the terms of this Lease.

15. Omitted.

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 Lease (the "Default Termination Date") and this Lease 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.

i. In the event that the Non-Defaulting Party terminates this Lease pursuant to this Section, the Defaulting Party shall pay all costs and expenses associated with the removal of the System from the Leased Premises.

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 Lease 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 Lease 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 Lessor:

City of Manitowoc
Attn: Mayor
900 Quay Street
Manitowoc, WI 54220

With a copy to:

Manitowoc City Attorney
Attn: City Attorney
900 Quay Street
Manitowoc, WI 54220

If to Lessee:

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

With copy to:

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

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 Lease 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.

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

21. **Choice of Law.** This Lease 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.

22. **Binding Effect.** This Lease 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 Lease may be executed in counterparts, which shall together constitute one and the same agreement. A signature on a copy of this Lease 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 Lease; Amendments.** This Lease represents 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. Lease may be amended only in writing signed by Lessee and Lessor 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 Lessee, Lessor agrees to execute and deliver in recordable form a copy of this Lease (or a memorandum of this Lease in a form mutually agreeable to both Parties) for recording in the title records of the county where the Leased 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 Lease 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 Lease 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. Attorneys' Fees. If any action brought in law or equity with respect to this Lease, arbitration, judicial reference or other proceeding is instituted between the Parties in connection with this Lease, 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 Lease.

28. Non-Discrimination. Lessee, its officers, employees, and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions 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.

[Signatures on the following page]

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

LESSOR

City of Manitowoc

By: _____

Name: Justin Nickels

Title: Mayor

By: _____

Name: Mackenzie Reed

Title: City Clerk

LESSEE

Manitowoc Public Utilities

By: _____

Name: Troy Adams

Title: General Manager

EXHIBIT A

SCHEDULE OF DEFINITIONS

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

“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.

“Building and Electrical Permits” means all permits, licenses, registrations and approvals required to install and construct the System on the Leased 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(b).

“Encumbrance” means any mortgage, pledge, lien (including mechanics’, labor or materialman’s lien), charge, security interest, or other encumbrance or claim.

“Event of Default” shall have the meaning ascribed to it in Section 16(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 Leased 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 Lessee'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.

“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.

“Leased Premises” shall have the meaning ascribed to it in the Recitals and in Exhibit B.

“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).

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

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

“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 Leased Premises, electric lines required to connect such equipment to the Leased 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 Lease.

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

EXHIBIT B

DESCRIPTION OF LEASED PREMISES

“Leased Premises” is 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 Leased Premises]

EXHIBIT C
SITE SUBLEASE FOR SOLAR INSTALLATION

[TO BE ATTACHED]