

Facility Lease Agreement

**53.600 kW DC JinkoJKM400M Solar Panels with 40.00 kW AC SolarEdge SE20k480V(2)
Inverter(s), SolarEdge P860 Power Optimizers & Unirac, PanelClaw (or equivalent)
Ballasted Racking**

Xcel SolarRewards

Customer	St. Paul Regional Water Services
Site	1900 Rice Street, St. Paul, MN 55113
Xcel Premise #	303657712

This **FACILITY LEASE AGREEMENT** ("**Agreement**"), dated **March 9, 2021** ("**Effective Date**") is between **Green2 Solar Leasing, LLC**, a Minnesota limited liability company, whose principal place of business is located at **5810 Nicollet Avenue Minneapolis, MN 55419** ("**Tenant**"), and **The Board of Water Commissioners of the City of Saint Paul, DBA St. Paul Regional Water Services ("SPRWS")**, a **Municipal Corporation under the laws of the State of Minnesota**, whose principal place of business is located at **1900 Rice Street, St. Paul, MN 55113** ("**Customer**"). Tenant and Customer are sometimes also referred to in this Agreement jointly as "**Parties**", or individually as a "**Party**".

RECITALS

- A. Customer is the owner or lessee of that certain Site located at **1900 Rice Street, St. Paul, MN 55113** presently used as a **Water Treatment Plant ("Site")**.
- B. Tenant desires to lease from Customer, and Customer desires and is authorized to lease to Tenant, subject to the terms and conditions of this Agreement, a portion of the Site for the construction, operation and maintenance of a photovoltaic solar electric system ("**Energy System**") as further described in that certain Purchase Agreement between Customer and **Ideal Energies, LLC ("Seller")** dated December 15, 2020 ("**Purchase Agreement**").
- C. Customer will be the **legal owner of the Energy System upon purchase from Seller**, and Customer desires to lease the same to Tenant subject to the terms and conditions of this Agreement.
- D. Tenant and Customer will, in connection with this Agreement, enter into a **Power Purchase Agreement of even date herewith ("Power Purchase Agreement")** pursuant to which Tenant will sell power generated by the Energy System to Customer.
- E. For federal tax purposes, Customer and Tenant will treat this Agreement as a transfer of the ownership of the Energy System from Customer to Tenant.
- F. The Project may be eligible to receive an investment tax credit from the U.S. Treasury, pursuant to Section 48 of the IRS Code ("**Tax Credit**"). The Tax Credit is worth **26%** of the Project's eligible costs ("**Projected Tax Credit**"), if the Project is "placed-in-service" in 2021 or 2022, or satisfies IRS requirements as having "begun construction" in 2022. Alternatively, the Tax Credit will be worth **22%** of the Project's eligible costs if the Project is "placed-in-service" or satisfies IRS requirements as having "begun construction" in 2023. The eligible cost basis for the Tax Credit may differ from the Installation Cost.
- G. Any capitalized term not defined herein will have the meaning given to it in the Purchase Agreement, unless otherwise stated.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual promises of the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Contingency.** The Parties performance under this Agreement is contingent on Substantial Completion occurring for the Project in accordance with the terms of the Purchase Agreement.
2. **Lease of Energy System and Leased Space.** Customer hereby leases to Tenant, and Tenant hereby leases from Customer the following: (a) the Energy System, and (b) all roof/ground space required for the installation and

operation of the Energy System on the Site ("**Leased Space**") as generally prescribed on the Plan View Drawing included herewith as **Schedule A**, including rights to place wiring to the point of interconnection. The Energy System and the Leased Space together constitute the leased property ("**Leased Property**"). The Plan View Drawing provided to Customer by Seller in its Operations Manual after Substantial Completion occurs is hereby incorporated into **Schedule A** of this Agreement by reference.

3. **System Payments, Tax Ownership.**

- a. **Installation Cost Payment.** Tenant hereby assumes in full and agrees to pay Customer's Installation Cost within 15 days after the Substantial Completion Date, as defined in the Purchase Agreement.
- b. **Transfer of Tax Ownership.** The Parties will treat the Energy System as having been sold to Tenant for federal tax purposes in consideration of the payment(s) made under Section 3.a above.

4. **Access to Leased Space.** Customer grants to Tenant the right to access the Leased Space via reasonable route(s) over and across the Site upon reasonable prior notice to Customer. Customer will cooperate with Tenant to access the electrical meter or any other part of the Energy System, if not located within the Leased Property.

5. **Permitted Use of Leased Space.** During the Term (as defined below), Tenant will have the exclusive right to use the Leased Space for the construction, installation, operation, maintenance, repair, replacement, relocation, reconfiguration, removal, alteration, modification, improvement, use and enjoyment of the Energy System (and other necessary and incidental uses for the operation of the Energy System) to fulfill Tenant's obligations under this Agreement and the Power Purchase Agreement ("**Permitted Uses**"). Tenant may not erect any other facilities or use any other equipment on the Leased Space that is not expressly permitted under the terms of this Agreement without first obtaining Customer's written consent, which consent will not be unreasonably withheld, delayed or conditioned provided the other facilities or equipment are related to the operation of the Energy System and are not likely, in Customer's reasonable opinion, to damage the Site or materially interfere with Customer's business.

6. **Term.** The term of this Agreement will begin on the Substantial Completion Date and terminate on the 20th anniversary thereafter ("**Term**").

7. **Rent of Leased Space.** Beginning on the first anniversary of the Substantial Completion and continuing on each and every anniversary thereof throughout the Term, Tenant will pay to Customer rent for the Leased Space. Such rent will be **\$45.00** per year ("**Leased Space Rent**").

8. **Rent of Energy System.** Beginning on the first anniversary of the Substantial Completion and continuing on each and every anniversary thereof throughout the Term, Tenant will pay to Customer rent for the Energy System. Such rent will be **\$5.00** per year ("**Energy System Rent**").

9. **Holdover.** If Tenant holds over its tenancy after expiration of the Term, such tenancy will be month-to-month subject to the terms and conditions of this Agreement. Either Party may terminate such month-to-month tenancy at any time upon the giving to the other Party no less than thirty (30) days written notice.

10. **Operating Permits.** Tenant will, at its sole expense, maintain in full force and effect all certificates, permits and other approvals ("**Operating Permits**") required by any federal, state or local authorities having jurisdiction over Tenant or the Leased Property.

11. **Energy System Title and Condition on Facility Lease Termination.** The Parties agree that legal title to any and all fixtures, equipment, improvements or personal property of whatsoever nature at any time constructed or placed on or affixed to the Leased Space by Tenant, including without limitation the Energy System and its System Components, will be and remain with Customer, as the Energy System owner. Tenant will leave the Energy System at the end of this Agreement in substantially the same condition as existed on the Substantial Completion Date plus any improvements, ordinary wear and tear and casualty damage excepted.

12. **Energy System Operation and Maintenance.**

- a. **Energy System Operation & Maintenance Services.** At Tenant's expense, Tenant will monitor the Energy System's performance and keep and maintain the Energy System in good condition and repair in accordance with the Maintenance Services provided in **Schedule B**; *provided, however*, the Parties acknowledge **Schedule B** is a guideline, to which strict adherence is not expected by the Parties ("**Maintenance Services**"). Customer is solely responsible for pursuing any available warranties on System Components against the manufacturer(s) at its own expense, and may look only to such manufacturer, and not to Tenant, for any warranty with respect thereto. Tenant will assist Customer in resolving any warranties relating to System Components as described in **Schedule B**. Tenant must prevent any liens from attaching to the Leased Space or the Site resulting from its maintenance activities, and will defend, indemnify, and hold Customer harmless from the same. In the event Seller fails to meet such obligation, Customer may discharge, satisfy, or settle such liens and Tenant will, within thirty (30) days of a written request by Customer, reimburse Customer for all costs and expenses incurred by Customer, including but not limited to attorneys' fees.

- b. **Energy System Casualty.** In the case of casualty to the Energy System, Tenant agrees to repair the Energy System with insurance proceeds described in Section 16.a. Customer will cause said proceeds to be provided to Tenant to make the repairs caused by the casualty. Tenant will repair, at Tenant's expense, any damage to the Leased Space that results from the Tenant's repair, reconfiguration, alteration, modification or replacement of the Energy System.
13. **Customer's Repair of Leased Space During Term.** Customer will have the right at any time to access the Leased Space to inspect, maintain, replace or repair items and components thereof, excluding the Energy System. ("**Customer Maintenance**"). Customer will provide thirty (30) days prior notice of any scheduled Customer Maintenance, except in the case of an emergency, wherein Customer will give notice as soon as practicable. Customer, at its own cost, will perform Customer Maintenance, and use Seller or another third party approved by Tenant to perform services required to be performed to the Energy System during Customer Maintenance (Tenant's approval of third parties will not be unreasonably withheld). Customer Maintenance will be performed at Tenant's expense to the extent the Customer Maintenance was required as a result of damage to the Leased Space caused by Tenant. Customer will reimburse Tenant for any lost Power Payment (as defined in the Power Purchase Agreement) and Incentive Payment (as defined in the Purchase Agreement) resulting from the Energy System being non-operational, excluding any downtime resulting from damage to the Leased Space caused by the Energy System.
14. **Utilities / Taxes.** After Substantial Completion Date, Tenant will pay all taxes and assessments levied upon the Energy System and other personal property located and/or installed on the Site by Tenant that are related and attributed to consideration paid to Customer by Tenant for the Leased Space and the lease of the Energy System.
15. **Interference.**
 - a. **Interference by Tenant.** Tenant will operate the Energy System in a manner that will not unreasonably interfere with any existing operations or equipment located, operated or owned by Customer or any other permitted occupants as of the date of this Agreement. All operations by Tenant must be lawful and in material compliance with all regulations and requirements of the Minnesota Public Utilities Commission, as well as any other applicable state, federal or local regulations and requirements and any applicable agreements with, or tariffs of, the local utility.
 - b. **Interference by Customer.** Following installation of the Energy System, Customer will not cause or permit any other persons or parties to, install equipment or facilities or construct or allow any construction of a structure or structures ("**New Construction**") near the Leased Space if such New Construction would interfere with the Energy System or its performance. Customer will not move, modify, remove, adjust, alter, change, replace, reconfigure or operate the Energy System or any part of it during the term of the Agreement without prior written direction or approval of Tenant, except if there is an occurrence reasonably deemed by Customer to be a bona fide emergency, in which case Customer will immediately notify Tenant of such emergency and Customer's proposed actions. Customer will be responsible for, and promptly notify Tenant, of any damage to the Energy System caused by the Customer or its employees, invitees or agents, and will promptly pay Tenant the costs to repair such damage to the Energy System, and Power Payments (as defined in the Power Purchase Agreement) due to Tenant.
16. **Insurance.**
 - a. **General Liability and Property Insurance.** Customer will provide Tenant, upon request, proof of property insurance with a certificate of insurance that names Tenant as an additional insured and loss payee as further described in **Schedule C**. Customer will provide documentation, upon request, of authorization to transact the business of a No-Fault Reparation Obligor authorized to self-insure for General Liability pursuant to Minnesota Statutes. Customer will provide Tenant with evidence, upon request, of having acquired such insurance coverages prior to the Substantial Completion Date and on an annual basis thereafter. The loss, injury or destruction of the Energy System will not release Customer from payment as provided in this Agreement. Customer is responsible for any deductibles due under the property insurance policies for casualties and will pay Tenant said deductible along with insurance proceeds received to repair the Energy System, and Tenant's lost Power Payments due to Tenant. Customer's failure or refusal to repair and recommission an Energy System following a loss will constitute a breach of this Agreement.
 - b. **Workers' Compensation Insurance and Employers' Liability Insurance.** In accordance with Minnesota state law, Tenant will maintain in force workers' compensation insurance for all of its employees. Tenant will also maintain employer's liability coverage in an amount of not less than One Million Dollars (\$1,000,000.00) per accident. Tenant will also secure and maintain adequate comprehensive general liability insurance against liability related to the Leased Property. Upon request, Tenant will provide Customer with a certificate of insurance.
17. **Indemnification.**

- a. Tenant agrees to indemnify and hold harmless Customer and its officers, directors, members, consultants, representatives, agents, employees and affiliates (each a "**Tenant Indemnified Party**") against any damages, liabilities, losses, costs and expenses, including reasonable attorney fees and costs (collectively, "**Damages**") incurred or suffered by any of them in any way arising out of, relating to, or in connection with (i) any breach of this Agreement by Tenant, or (ii) gross negligence or willful misconduct of Tenant or its employees or agents in connection with the transactions contemplated by this Agreement.
 - b. Tenant agrees to indemnify Customer from any mechanic's, materialman's, or other lien with respect to the Site or the Leased Property to the extent such lien is attributable to Tenant's failure to pay the Installation Cost or other costs incurred in the performance of Tenant's obligations for maintenance and repair of the Energy System.
 - c. Customer agrees that it is and will be fully responsible for all actions of its officers, directors, members, consultants, representatives, agents, employees and affiliates (each a "**Customer Party**") and for any Damages caused by any of them in any way arising out of, relating to, or in connection with (i) any breach of this Agreement by Customer, or (ii) gross negligence or willful misconduct of Customer or its employees or agents in connection with the transactions contemplated by this Agreement.
 - d. A Party claiming indemnification or Damages hereunder must give each Party prompt notice of the relevant claim and each Party agrees to cooperate with each other Party, at its own expense, in the defense of such claim. Notwithstanding the foregoing, any Party from whom indemnification or Damages is sought, will control the defense and settlement of such claim; provided however that such Party will not agree to any settlement that materially adversely affects the other Party without the prior written consent of such Party, which approval will not be unreasonably withheld. Without limiting or diminishing the foregoing, any Party may, at its option and its own expense, participate in the defense of any such claim with legal counsel of its own choice.
18. **Incentive.** The Incentive, as defined in the Purchase Agreement, (the "**Incentive**") is irrevocably assigned to Tenant as additional consideration and will be treated by Tenant as a fee earned for services. In the event the actual Incentive received is greater or less than the expected Incentive described in the Purchase Agreement, there will be no adjustment to the Incentive or the terms of this Agreement, and each Party waives its right to recover any surplus or deficiency from the other Party.
19. **Miscellaneous.**
- a. **Relationship of the Parties.** The Parties will for all purposes be considered independent contractors with respect to each other, and neither will be considered an employee, employer, agent, principal, partner or joint venturer of the other.
 - b. **Entire Agreement.** This Agreement and all schedules, exhibits and attachments hereto, together with any agreement referenced herein, constitute the entire agreement and understanding of the Parties relative to the subject matter hereof. The Parties have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth or referred to herein. This Agreement replaces and supersedes any and all prior oral or written agreements, representations and discussions relating to such subject matter.
 - c. **Survival of Representations.** All representations, warranties, covenants and agreements of the Parties contained in this Agreement, or in any instrument, certificate, exhibit or other writing provided for in it, will survive the execution of this Agreement and the consummation of the transactions contemplated herein.
 - d. **Amendment.** This Agreement may be amended or modified only in writing and executed by the Parties to this Agreement. No custom or practice of the Parties at variance with the terms hereof will have any effect.
 - e. **Notices.** All notices to be given under this Agreement will be in writing and will be effectively given upon personal delivery, facsimile or email transmission (with confirmation of receipt), delivery by overnight delivery service or three days following deposit in the United States Mail (certified or registered mail, postage prepaid, return receipt requested).
 - f. **No Delay.** No delay or failure on the part of any Party hereto to exercise any right, power or privilege hereunder will operate as a waiver thereof.
 - g. **Force Majeure.** Neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including without limitation fires, flood, accidents, explosions, sabotage, strikes or other labor disturbances, civil commotion, riots, invasions, wars, acts of God, acts of government, terrorism, delayed governmental process, international tariffs, inability to timely obtain a permit, inability to obtain sufficient qualified labor, or any cause (whether similar or dissimilar to the foregoing) beyond the reasonable control of the Party.

- h. **Governing Law / Venue.** This Agreement will be governed by and construed in accordance with the laws of the state of Minnesota without regard to its conflict of laws principals. Any legal action may only be commenced and proceed in the relevant district court in Ramsey County, Saint Paul, Minnesota.
- i. **Severability.** The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering will not affect the validity and enforceability of the remainder of this Agreement.
- j. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement, or any portion thereof, without the prior written consent of the other Party. Any attempted assignment or transfer without such prior written consent of the other Party shall be of no force or effect. As to any permitted assignment: (i) reasonable prior notice of any such assignment shall be given to the other Party; and (ii) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party in writing. Notwithstanding the foregoing, as may be required for Tenant to comply with Minnesota Statutes Chapter 216B.02, subd. 4, or to leverage tax benefits as tax owner, Tenant may, at its sole discretion, assign and/or sublease all or part of its full interest under this Agreement to a controlled affiliate of Tenant.
- k. **UCC Terms.** All terms in this Agreement that are defined in the Minnesota Uniform Commercial Code, as amended from time to time ("UCC") will have the meanings set forth in the UCC and such meanings will automatically change at the time that any amendment to the UCC, which changes such meanings, becomes effective.
- l. **Definitions.** Any capitalized term not defined herein will have the meaning given to it in the Purchase Agreement, unless otherwise stated.
- m. **Marketing and Promotion.** Tenant will not use Customer's name, image or likeness in connection with advertising and promoting the Project or the Energy System without Customer's approval, which will not be unreasonably withheld.
- n. **Subordination to Utility Agreements.** No portion of this Agreement is intended to conflict with any Utility Agreements to which Seller, Tenant, Customer or Customer's tenants (if any) are a party. In the case of a conflict between the terms or conditions of this Agreement and the Utility Agreements, the terms and conditions of the Utility Agreements will control. Utility, or its successors and assigns, is a third-party beneficiary of the provision of this paragraph. Nothing in this Agreement will prevent Utility, from fully enforcing the terms and conditions of its Utility Agreements.
- o. **Data Practices.** Tenant considers the information contained in this Agreement related to the programs, methods, techniques and processes utilized by Tenant to offer and implement the Energy System to be trade secret information of Tenant as defined in the Minnesota Government Data Practices Act Ch. 13.37 Subd. 1 (b) GENERAL NONPUBLIC DATA. To the extent permitted by the Minnesota Data Practices Act, unless otherwise ordered by a duly authorized court, this information will not be shared or disclosed with any person or third party without the prior written approval of Tenant.

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The Parties hereto have caused this Agreement to be duly signed in their respective names as of the Effective Date.

Tenant

Green2 Solar Leasing, LLC

By: _____

Rich Ragatz, its Vice President

Dated: _____

Approved as to form:

**BOARD OF WATER COMMISSIONERS OF THE CITY
OF SAINT PAUL**

By: _____

Stephen P. Schneider, General Manager
Saint Paul Regional Water Services

By: _____

Mara Humphrey, President

Date: _____

Date: _____

By: _____

Lisa Veith
Assistant City Attorney

By: _____

Mollie Gagnelius
Secretary

Date: _____

Date: _____

By: _____

John McCarthy
Director, Office of Financial Services

Date: _____

Trade Secret

SCHEDULE A

Site Plan

Plan View Drawing indicating the final location of the Energy System on the Leased Space and the point of interconnection of the Energy System with the electrical system at the Site

[The above document is provided by Seller, and is included in the Owner's Manual that is provided to Customer after Substantial Completion]

SCHEDULE B

Maintenance Services

1. Operation and Maintenance Standard of Care. Tenant will use commercially reasonable efforts to identify, respond to, and complete necessary maintenance and repairs and to operate the Energy System to operate the Energy System in accordance with the Design Documents and manufacturers' Operating Manuals (as described in the Purchase Agreement). Notwithstanding the foregoing, the Parties understand that delays may be caused by multiple reasons including without limitation, delay in the identification of operational issues, troubleshooting issues, warranty replacement, warranty procurement, force majeure, parts availability, parts delivery, crew availability, equipment defects, equipment performance, internet downtime, and similar causes.

2. Maintenance Services. The following Maintenance Services are provided by Tenant at Tenant's sole expense as described in Section 12 of this Agreement:

- A. Weekly performance monitoring via online monitoring system to validate performance of panels and inverters, energy production; benchmark performance vs. similar systems for validation
- B. Identify any defective equipment via on-line monitoring system
- C. Semi-annual site audits of the Energy System performing the following tasks
 - 1. Inspect panels, inverters, and racking for physical damage
 - 2. Clean any debris on or under the solar arrays
 - 3. Ensure labels are intact
 - 4. Check for loose hanging wires, repair as necessary
 - 5. Check electrical connections, tighten/torque as necessary
 - 6. Check for corrosion of electrical enclosures, repair as necessary
- D. Tenant will manage System Component warranty claims on behalf of Customer

3. Fees for parts replaced under manufacturer's warranty. For twelve (12) months after the Substantial Completion Date, Tenant will provide the services described in Section 12a at Tenant's sole expense. Beginning on the thirteenth (13) month, the following fees will be charged to Customer where Tenant removes and reinstalls parts that are available and replaced under the manufacturer's warranty. Inverters will be serviced as soon as possible after identification of a performance issue. After identification of performance issues, Optimizers will be replaced at least quarterly.

- 1. Panel Replacement & Recycling Services - \$150 / each
- 2. Optimizer Replacement Services - \$65 / each
- 3. Inverter Replacement Services
 - o 20 to 50 kW inverter - \$200 / each
 - o 51 to 100 kW inverter - \$400 / each

4. Payment for Services. Payment is due for any services provided by Tenant under Section 3 above net 30 days from Tenant's invoice date.

SCHEDULE C

Green2 Solar Leasing, LLC Insurance Requirements for Solar Equipment

Contact your insurance company and let them know you are installing solar equipment and need to insure it. Have them issue a Certificate of Insurance described below as required to comply your Facility Lease Agreement's requirements. If your insurance company has any questions about the equipment, the installation or the below, please have them contact **Wendy Vorasane** of iDEAL Energies at **612.928.5008**.

Please have a copy of the Certificate of Insurance emailed to wendy.vorasane@idealenergies.com.

1. List the following information in the 'Certificate Holder's' box:

Green2 Solar Leasing, LLC 5810 Nicollet Avenue, Minneapolis, MN 55419

2. List the following (or equivalent language) in the 'Descriptions of Operations / Locations / Vehicles' box:

Green2 Solar Leasing, LLC is named as Loss Payee for solar equipment installed valued at \$106,000.00 (the Installation Cost). Should any of the above described policies be cancelled before the expiration date, 30 days-notice will be sent in accordance with the policy provisions.