

Put and Call 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 **PUT AND CALL 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 purchaser of a photovoltaic solar electric system ("**Energy System**") located at the Site, as defined in that certain Purchase Agreement between Customer and **Ideal Energies, LLC** ("**Seller**") dated December 15, 2020 (the "**Purchase Agreement**").
- B. Tenant is the lessee of the Energy System and associated rights under the **Facility Lease Agreement** with Customer of even date herewith ("**Facility Lease Agreement**"), and Tenant sells the Energy System generated from the Energy System pursuant to a Power Purchase Agreement with Customer of even date herewith ("**Power Purchase Agreement**", together with the Purchase Agreement, the Facility Lease Agreement and this Agreement, the "**Transaction Documents**") (Tenant's interests in the Facility Lease Agreement and Power Purchase Agreement is referred to herein as an "**Interest**").
- C. The Parties hereto now desire to enter into this Agreement to set forth the terms and conditions upon which Tenant has an option to put its Interest(s) to Customer and upon which Customer has an option to call Tenant's Interest(s) from Tenant.

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 hereby are acknowledged, the Parties hereby 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. **Put of Tenant's Interest.** Commencing on the completion of the **16th consecutive full year after the Substantial Completion Date for the Project, and for a period of three (3) months thereafter** ("**Put Period**"), Tenant will have the right to exercise the option to require Customer to purchase all, but not less than all, of Tenant's Interest in the Energy System installed pursuant to that Project ("**Put**"). Tenant may exercise the Put by delivering notice of exercise of such option in writing to Customer during the Put Period. If exercised, Tenant will be obligated to sell, and Customer will be obligated to purchase, all of the Interest owned by Tenant. The purchase price for any Interest will be **\$1.00** ("**Put Price**"). The date of the Put closing will be thirty (30) days following the notice of exercise of the Put, or such earlier date as the Parties may agree in writing ("**Put Closing Date**"). The Put Price will be paid by Customer to Tenant in cash on the Put Closing Date. Each Party will remain liable for any obligations arising under the Facility Lease Agreement prior to the Put Closing Date. Notwithstanding the foregoing, an invoice

provided by Tenant to Customer stating the Project and its Put Price, and Customer's payment of the same satisfies the requirements of this Section.

3. **Call of Tenant's Interest.** For a period of **nine (9) months beginning the day following the last day of the Put Period ("Call Period")** for the Project, Customer will have the right to exercise the option to purchase all, but not less than all, of Tenant's Interest in the Energy System installed pursuant to that Project ("**Call**"). Customer may exercise the Call by delivering notice of exercise of such option to Tenant during the Call Period. If exercised, Customer will be obligated to purchase, and Tenant will be obligated to sell, all of the Interest owned by Tenant. The purchase price for the Interest pursuant to the Call will be an amount equal to the fair market value of such Interest as agreed by the Parties ("**Fair Market Value Price**") and if no agreement is possible, then by a qualified independent third party appraiser selected by Customer and the cost of which is paid for by Tenant ("**Call Price**"). The Parties agree, for the Project, that a reasonable method of establishing the Fair Market Value Price is to use a discounted cash flow value of Tenant's power purchase income less expenses remaining under the Power Purchase Agreement and Facility Lease Agreement as of the Call Date. As of the date hereof, the Parties believe that a discount rate of 15% is reasonable and agree that the Parties will use the foregoing method in determining the Fair Market Value Price and resulting Call Price. The date of the Call closing will be thirty (30) days following delivery of the notice of exercise of the Call, or such earlier date as the Parties may agree in writing ("**Call Closing Date**"). The Call Price will be paid by Customer to Tenant in cash on the Call Closing Date. Each Party will remain liable for any obligations arising under the Facility Lease Agreement for the Energy System prior to the Call Closing Date.
4. **Obligations following exercise of Put or Call.**
 - a. **Tenant.** After the transfer and assignment of the Interest for the Energy System, pursuant to the Put or Call, Tenant will have no further obligations in connection with that Interest.
 - a. **Customer.** After the transfer and assignment of the Interest for the Energy System pursuant to the Put or Call, Customer will make, if not already paid, the Power Payments described in **Schedule A** of the Power Purchase Agreement beginning with the month after Substantial Completion Date through and including the month of the Project's Put or Call Closing Date. After the Put or Call Closing Date, Customer is not obligated to pay Tenant any additional Power Payments.
5. **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.
- 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 tenant 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 (as defined in the Purchase Agreement), 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 the 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. In no event will this information be shared or disclosed with any person or third party without the prior written approval of Tenant.

[SIGNATURE PAGE FOLLOWS]

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: _____