

Docket No. 9810-CE-100  
Portage Solar, LLC

## JOINT DEVELOPMENT AGREEMENT

This Joint Development Agreement (Agreement) is made by, among and between Portage Solar, LLC (Portage Solar), the Towns of Grant, Wisconsin (Grant), Plover, Wisconsin (Plover) (each, a Town and collectively, the Towns), and Portage County, Wisconsin (County) (the Towns and County, together, are referred to herein as Local Governments), on this 5th day of January, 2023 (Effective Date). Portage Solar and each of the Local Governments are referred to herein individually as a Party and collectively as the Parties.

### RECITALS

**WHEREAS**, Portage Solar desires to develop, construct and operate a 250-megawatt (MW) solar photovoltaic electrical generating facility with necessary associated facilities such as a generation tie line, a new substation, power collection lines, a battery energy storage system (BESS), an operations and maintenance facility, and access roads in the Towns and County (Project). In order to build the Project, Portage Solar must apply for and receive a Certificate of Public Convenience and Necessity (CPCN) from the Public Service Commission of Wisconsin (PSCW); and

**WHEREAS**, Portage Solar represents that it owns, leases, has options to purchase, or has other contractual rights over all of the land comprising the real property legally described in the Project application to the PSCW and is authorized to engage in this Agreement and incur the obligations identified herein with respect to the Project that Portage Solar intends to construct and operate; and

**WHEREAS**, the Parties agree that it is in the best interests of each to memorialize the rights, obligations, and responsibilities of the Parties with respect to the Project's use of, among other things, County and Town roads, rights-of-way and drainage systems during construction and operation of the Project; and

**WHEREAS**, the Parties agree that the Project is subject to the jurisdiction and authority of the PSCW; and

**WHEREAS**, the Parties further agree that this Agreement is the product of joint negotiations, and its primary purpose is to foster cooperation and good faith dealing among them with respect to the Project; and

**WHEREAS**, the Parties recognize that this Agreement serves to preserve and protect the public health and safety, does not significantly increase the cost of the Project, and does not significantly decrease its efficiency as set forth in Wis. Stat. § 66.0401; and

**WHEREAS**, the Parties intend this Agreement to be a binding and enforceable contract.

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and agreements contained herein, the Parties agree as follows:

1. **Planning.** The Project is subject to the PSCW's jurisdiction, authority, and approval. The Project's preliminary site plans are subject to PSCW approval with respect to substantive site design changes. The Project is generally consistent with Local Governments' land use plans and zoning codes. Portage Solar agrees to apply for and obtain all required approvals from Local Governments that are not preempted by the CPCN approval under Wis. Stat. § 196.491(3). Parties will promote emergency preparedness, the health and safety of their employees, authorized representatives, and the Local Governments' residents by performing the following:
  - a. At least sixty (60) days prior to the start of construction, Portage Solar shall provide the construction start date to the Local Governments;
  - b. At least sixty (60) days prior to the start of construction, Portage Solar will hold an on-site meeting with local emergency response personnel. Discussion and action topics for said meeting shall include the construction site-specific emergency action plan and emergency response information, including Project site meeting points, emergency equipment locations, and construction plans. During the course of construction, at least one emergency drill will be scheduled, at which local emergency responders will be invited to participate. As available, written copies of emergency action plans and site maps will be provided to local emergency responders with copies to Local Governments; and
  - c. At least thirty (30) days prior to the start of construction, Portage Solar's representatives shall meet virtually or in person with the Local Government officials<sup>1</sup> responsible for roads and drainage and with local emergency responders to present final plans for the proposed use of public roads, location of equipment laydown yards, finalize construction scheduling, discuss safety practices, and further coordinate local emergency response capabilities (the Pre-Construction Meeting). Portage Solar shall advise Pre-Construction Meeting attendees about planned equipment on site, material delivery types, any anticipated road closures, and schedules for the same. At the Pre-Construction Meeting, the Parties shall identify safety concerns and structural issues of any road or structure, and propose mutually acceptable alternative routes or remediation

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<sup>1</sup> Representatives under this provision shall be designated by each Local Government entity.

methods for alleviating such concerns and issues. Final decisions as to traffic routing shall be at the sole reasonable discretion of the Local Governments that have jurisdiction over said roads, and consistent with any Local Governments' process required for such routing; and

- d. No later than the date of the Pre-Construction Meeting, Portage Solar shall provide the contact person for each Local Government with copies of any glare, sound, electromagnetic frequency, and storm water studies which were previously submitted in conjunction with the PSCW's CPCN review process; and
- e. During the period of Project construction, representatives of Portage Solar shall provide monthly written updates to Local Governments on the Project construction progress. No later than ninety (90) days after the commencement of construction, Portage Solar shall schedule a meeting with Local Governments, at a date and time agreed by all Parties, to report-on and discuss construction progress; and
- f. No later than ninety (90) days after the Commercial Operation Date (COD), Portage Solar shall schedule an on-site meeting inviting local emergency responders to discuss the operation's site-specific emergency action plan, emergency response information such as meeting points, locations of emergency equipment, and operation plans. No later than six (6) months after the COD, Portage Solar shall schedule and conduct an emergency response drill, and shall invite local emergency responders to attend and participate; and
- g. If required by applicable Local Government laws, Portage Solar shall obtain approval for all field access points to a public road from those Local Governments that have jurisdiction; and
- h. Upon commercial operation of the Project, access to the Project site areas, other than to any substation area, shall be secured by a Knox Box installed at each access point. Portage Solar shall provide emergency responders with access information to each Knox Box and shall provide each Local Government's contact person with the contact information for each emergency responder contact who has been provided access information.

**2. Project's Use of Roads and Road Repair Obligations.**

- a. Project site roads are those internal roadways located on the real property which encompasses the Project and which provide access to public roadways for on-site equipment, construction, and

operation. Portage Solar shall construct twelve to sixteen (12-16)-foot wide Project site roads to provide access to public roadways and on-site equipment for construction and operation. The roads will be constructed primarily at grade to maintain the site drainage characteristics. Portage Solar may install culverts in areas of confined/preferential flow to maintain surface water flow under the constructed access roads. Portage Solar will begin construction of the internal site roads by removing the topsoil and organic material, then compact and construct the subgrade per civil design requirements, before adding and compacting a layer of road base.

The Project site roads shall consist of and be maintained with an all-weather surface. The Local Governments shall not be responsible for construction or maintenance (including snowplowing) of any Project site roads. Portage Solar shall make reasonable efforts to maintain the Project site roads in a dust-free manner such that the dust from the Project site roads does not leave the Project real property and unreasonably impact neighboring property owners.

The site access points for the Project site roads onto public roads shall be a maximum of forty feet (40') in width. All site access points shall comply with the Towns' driveway ordinance to the extent applicable, including obtaining driveway permits, where applicable.

- b. Portage Solar shall document by video the pre-construction conditions of all public roads to be used during construction and during the term of this Agreement. Portage Solar shall commission a report prepared by an independent Wisconsin-licensed Civil Engineer to document and confirm the pre-construction condition of the portions of public roads anticipated to be used during construction. Portage Solar shall provide the name of the Civil Engineer to the Local Governments not less than thirty (30) days before the Civil Engineer begins working on the report and shall also provide such report to the Local Governments not less than thirty (30) days prior to the start of construction.
- c. Motor vehicles used by or on behalf of Portage Solar, its contractors, subcontractors, and employees during construction and for the term of this Agreement that exceed 7.5 tons (15,000 pounds) shall use only those roads listed in this Section 2(c) (hereinafter "Local Government Roads"). The Local Government Roads are Coolidge Avenue south of Hwy 54; Monroe Avenue/Townline Road between Hwy 54 and Buena Vista Creek (AKA Lateral 2); Forest Drive and Prairie Drive between Coolidge Avenue on the east and Monroe Avenue on the west; Birch Drive/Street between Coolidge Avenue on the east and 130<sup>th</sup> Street on the west; and 130<sup>th</sup> Street between



Birch Street and Buena Vista Creek (AKA Lateral 2). No other Local Government roadways may be used as a route of vehicular travel by motor vehicles exceeding 7.5 tons except as otherwise agreed to by Portage Solar and any Local Government with jurisdiction over such roadway. Portage Solar shall reimburse the Towns for the cost of signage and installation to assure compliance with routes of travel.

d. Upon completion of construction and at subsequent times during the Term of this Agreement, Portage Solar shall:

1. During and reasonably after Project construction, repaving, and decommissioning, reconstruct that portion of Local Government Roads as deemed necessary by the Local Governments to as good or better condition than pre-Project construction, repaving or decommissioning;

2. Except for those periods described in Section 2(d)(1), and during the Term of this Agreement, repair the Local Government Roads as reasonably deemed necessary by the Local Governments. Said repair shall be limited to reimbursing the Local Governments for reasonable repair for Local Government Roads damaged (other than normal wear and tear) due to use by Portage Solar; and

3. Portage Solar shall pay 75 percent of all costs to reconstruct, repair and maintain (including re-surfacing and re-asphalting) the Local Government Roads for those periods described in Section 2(d)1. Portage Solar shall pay 50 percent of all costs to repair (including re-surfacing and re-asphalting) the Local Government Roads for that period and of the type of repairs described in Section 2(d)2.

e. The Parties acknowledge that in connection with construction, operation and maintenance of electric collection lines, communications cables, and other equipment (collectively, the Facilities), Project Facilities may cross road rights-of-way and/or drainage systems. Portage Solar shall seek and obtain all permits typically required of others under the applicable Local Government ordinances for use of public roads, such as driveway permits, utility permits, and rights-of-way crossing permits. All underground borings shall commence and terminate outside of the right-of-way, unless otherwise approved by the applicable permitting entity.

The Local Governments do not warrant that the public title to any right-of-way is free and clear, do not certify that they have sole ownership, and do not indicate any intention to defend Portage Solar in its peaceful use and occupancy of said lands. This Agreement is

not intended to transfer any title or right to any land or easement. This Agreement or any subsequent authorization as may be necessary from the Local Governments do not relieve Portage Solar from compliance with any and all applicable federal and state laws and codes.

Portage Solar shall take all necessary precautions to minimize or eliminate any damage to the Local Government roadways and shall be responsible for repair and restoration of the same. Portage Solar shall repair at its expense and in a manner reasonably satisfactory to the Local Governments, any subsequent heaving, settling or other faulting to Local Government roadways attributable to the Project, Project-related utility work, or Project decommissioning.

- f. Upon decommissioning of the Project, Portage Solar shall provide to a Town(s) and/or County, if any so desires, and at no cost, some or all of the aggregate materials to be removed from the permanent and temporary Project access roads. Portage Solar shall remove the aggregate materials from the Project access roads and spread the same on a Town or County road as the Town(s) or County designates.

3. **Project's Drainage Repair Obligations.** Portage Solar shall develop a Stormwater Pollution Prevention Plan and Erosion Control Plan for the Project (Erosion Plan) or similar plan as required by the PSCW. Portage Solar shall provide these documents to the contact person for each Local Government thirty (30) days prior to the start of construction.

If not provided in the Erosion Plan, Portage Solar shall have ninety (90) days from the completion of Project construction to provide the applicable Local Government with a plan in which to (a) remedy damage to public drainage infrastructure, if any, within the Project footprint, caused by construction activities that negatively impact drainage systems, and if applicable, and/or (b) compensate the applicable Local Government to repair such public drainage infrastructure to a level comparable to the pre-construction level.

4. **Utility Shared Revenue Payments.** The Parties acknowledge that commercial operation of the Project will result in payment to the Local Governments of annual license fees under Wis. Stat. §§ 76.28 (license fees for light, heat and power companies) or 76.29 (license fee for sale of electricity at wholesale) (Annual License Fee). Pursuant to Wis. Stat. § 79.04, the Wisconsin Department of Administration is required to distribute a certain amount of the Annual License Fee to certain counties and municipalities (Utility Shared Revenue Payment). The Parties estimate that the Project will generate over its useful life up to \$1,000,000.00 annually in

Utility Shared Revenue Payments, unrestricted aid that may be used for any activity approved by any Local Government body.<sup>2</sup> The Local Governments agree that under the current shared revenue formula, the Utility Shared Revenue Payment to be distributed by the State of Wisconsin is as follows:

- 1) \$75,000.15 annually for Grant
- 2) \$341,667.35 annually for Plover
- 3) \$583,332.50 annually for the County

If applicable laws change during the life of the Project resulting in a reduction of the amount of these Utility Shared Revenue Payments, Portage Solar shall compensate the Local Governments in an amount equal to the difference between the annual utility aid payments required under laws applicable on the effective date of the Agreement and the amount paid to Local Governments by the State of Wisconsin under the changed law. Portage Solar shall make such true-up payments, if any, annually to the Local Governments no later than January 31 of the year following the year for which payment is made.

**5. Assurances in Support of Decommissioning.**

- a. At least ninety (90) days prior to starting construction on the Project, Portage Solar shall provide the County, with copies of said financial assurance to the Towns, with cash, a bond, or a letter of credit (collectively and individually, Financial Assurance) to cover ten (10) percent of the estimated costs of the decommissioning plan filed with the PSCW, net of any salvage value if not otherwise accounted for in the decommissioning plan costs.
- b. On or before the fifth anniversary of the Project's COD, Portage Solar shall provide the County, with copies of said financial assurance to the Towns, with Financial Assurance to cover seventy (70) percent of the estimated costs of the decommissioning plan filed with the PSCW, net of any salvage value if not otherwise accounted for in the decommissioning plan costs.
- c. On or before the tenth anniversary of the Project's COD, Portage Solar shall provide the County, with copies of said financial assurance to the Towns, with Financial Assurance to cover one hundred (100) percent of the estimated costs of the decommissioning plan filed with the PSCW, net of any salvage value if not otherwise accounted for in the decommissioning plan costs.

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<sup>2</sup> The total amount of Utility Shared Revenue Payments and allocation of the same are based on current Project design as of the time of execution of this Agreement. These amounts and recipients may change based upon final Project design and construction.



- d. The Financial Assurance set forth herein and the decommissioning plan filed with the PSCW shall survive the termination of this Agreement until decommissioning is complete as determined by the PSCW. Local Governments shall not be responsible for any costs associated with the decommissioning plan.
- e. On or before the twentieth anniversary of the Project's COD, Parties shall review and update the decommissioning plan set forth herein. The Parties will review and update the decommissioning plan every five (5) years thereafter until decommissioning is complete as determined by the PSCW or any government entity with authority over decommissioning.
- f. If the Parties mutually determine in the course of updating the decommissioning plan that the cost of decommissioning is more than described in the decommissioning plan filed with the PSCW, said Financial Assurance shall be promptly increased to cover the increased decommissioning costs.
- g. If Portage Solar is acquired by a utility or cooperative with service territory in Wisconsin, no Financial Assurance shall be required unless required by the PSCW or a governing board with authority over the cooperative.

**6. Setbacks, Equipment Height, Vegetation, and Fencing.**

- a. **Project Setbacks.** The Project design shall incorporate a minimum one hundred (100) foot setback to all above-ground Project components from non-participating inhabitable buildings (excluding fences and access roads) existing at the time of Project CPCN application submission to the PSCW, and shall otherwise comply with all minimum setbacks described in Table 1.5-1 of Portage Solar's CPCN application. Portage Solar will continue to work with willing non-participating landowners to address situations which may require impact mitigation, such as larger setbacks than described in Table 1.5-1 of Portage Solar's CPCN application. Portage Solar will comply with all applicable Wisconsin Department of Transportation vision clearance triangles standards in designing the Project (excluding fences).
- b. **Equipment Height.** The height of the Project's components shall be no higher than twenty-five (25) feet (with the exception of the Project substation, generation tie-line, overhead collection system, and overhead downcast and shielded lighting).

- c. **Vegetation Management.** Portage Solar shall comply with the vegetation management plan filed with and approved by the PSCW. If the vegetation management plan is not approved by the PSCW, Portage Solar shall comply with the version last filed with the PSCW. Vegetative management plans filed with PSCW shall conform to all applicable Wisconsin Department of Natural Resources (WDNR) requirements.
  
- d. **Fencing.**
  - 1) Portage Solar shall install eight (8) foot high deer exclusion fencing around the solar equipment to mitigate changes to the aesthetics of agricultural landscape and to prevent larger animals from gaining access to Project equipment. The deer exclusion fencing shall have openings large enough to allow the safe passage of small wildlife. In the event the deer exclusion fencing height mandated by the PSCW is greater than eight (8) feet, the height mandated by the PSCW shall control.
  - 2) The Project's substation fence may utilize chain link and barbed wire, as required by electrical code.
  - 3) No fence shall cross a "navigable" waterway.
  - 4) Wildlife passage shall be allowed and encouraged along natural corridors that wildlife may utilize while looking for food, shelter and safety in the enclosed Project area, such as stream and drainage corridors. WDNR Wildlife Biologists shall be contacted to discuss Portage Solar's approach and provide guidance.
  
- e. **Aesthetics.** Portage Solar shall maintain the aesthetics of all Project facilities during the entire lifespan of the Project and shall not allow equipment or fencing to deteriorate or remain in a state of disrepair within view of the public or adjoining landowners.
  
- f. **Glare Reduction.** To reduce the protentional for glare associated with solar panels facing any road or residential structures of any non-participating landowner, the rotation of panels on trackers will be limited to no greater than sixty (60) degrees from horizontal, unless a different position is required for Project safety (e.g., high winds or floods). In addition, and other than for Project safety, trackers will not position panels to be horizontal at sunrise or at sunset to avoid glare caused by high angles of incidence.

- g. Signage. No advertising material or signage other than warning, equipment identification, wildlife deterrents, or ownership information shall be allowed on or within the Project. This prohibition includes the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners, or waiving, fluttering or revolving devices on or within the Project.
  - h. Portage Solar shall take all reasonable steps to mitigate any interference with radio, internet, telecommunications, or television signals caused by the Project. The Project shall be conducted without offensive noise, vibration, dust, smoke, odor, glare, lighting, or the risk of fire, explosion, or other accident, to the extent practicable in light of then-current solar industry good utility practices. Lighting must be downcast and shielded as not to shine onto the road or neighboring properties.
7. **Annexation.** Portage Solar agrees that in its pursuit, construction, operation, and sale (if any) of the Project, it will not directly or indirectly annex, attach, or consolidate any portion of the Project real estate to an incorporated municipality including, without limitation, the Village of Plover, Wisconsin. For avoidance of doubt, the preceding is intended to be liberally construed to prohibit Portage Solar, its successors and/or assigns from altering the municipal boundary lines encompassed by the Project at the time of the execution of this Agreement whether by annexation, incorporation, consolidation, or any other method that would result in a transfer of the Project's real estate from the Towns to another municipal authority.
8. **Professional Fees.** Portage Solar, within forty-five (45) days of the execution of this Agreement by the last of each and every Party, and upon receipt of invoice, shall reimburse the Local Governments their reasonable professional expenses incurred in reviewing, revising and negotiating this Agreement, to a maximum total amount of \$25,000.00.
9. **Assignment of Interest.** Portage Solar shall have the sole and exclusive right to sell, assign, or lease any or all portions of its Project to any non-Party entity at any time. In such event, such non-Party entity shall, with Portage Solar or, in the event of total sale, assignment or lease, in lieu of Portage Solar, have the same rights and obligations as Portage Solar as set forth in this Agreement, to operate the Project in, along, under, and across the same real property, road rights-of-way and drainage systems. Portage Solar shall also have the sole and exclusive right (without consent from the Local Governments required) to collaterally assign its interest in this Agreement to any parties providing debt, equity, or other financing for the Project to Portage Solar or any of its affiliates. For the avoidance of doubt, no direct or indirect change in control of the ownership interests of

Portage Solar, LLC, or any sale of direct or indirect ownership interests in Portage Solar, LLC (including any tax equity investment or passive investment) shall constitute an assignment requiring the consent of the Local Governments under this Agreement. This Agreement shall remain in full force and effect to any and all successors and assigns.

10. **Insurance.** Portage Solar shall obtain and maintain in force policies of insurance covering the Project and Portage Solar's activities on the Project site at all times during the terms of this Agreement, including specifically Commercial General Liability Insurance with a minimum limit of Three Million and 00/100 Dollars (\$3,000,000.00) per claim and general aggregate. Such insurance coverage for the Project may be provided as part of a blanket policy that covers other solar facilities or properties as well. Portage Solar shall provide Local Government with copies of certificates of insurance evidencing this coverage upon request by Local Government.
11. **Battery Storage.** Portage Solar shall follow good utility practice and all applicable safety and fire codes associated with building and operating a BESS.
12. **Scope.** This Agreement governs the activities of Portage Solar and the Local Governments only insofar as they relate to the construction, operation, maintenance, and long-term care of the Project as described in the CPCN application as ultimately approved by the PSCW. Nothing in this Agreement is intended to address any future expansion or modification of the Project beyond that contemplated by this Agreement at execution and as ultimately approved in the PSCW.
13. **Cooperation.** Portage Solar and the Local Governments shall communicate and cooperate in good faith concerning the safe construction and operation of the Project and preventing or correcting any adverse conditions that may be created by the Project.
14. **Compliance and Complaint Process.** Portage Solar shall provide each Local Government contact person with the contact information of Portage Solar's contact person (Project Contact) who the Local Governments can communicate with for all Project compliance and complaint matters. During construction, the construction site manager of the engineering, procurement, and construction firm selected by Portage Solar will be designated as the Project Contact. After construction completion, Portage Solar shall designate at least one member of its full-time operations team as its Project Contact. Local Governments shall submit all Project compliance and complaint inquiries in writing via electronic mail at an address provided by Portage Solar.

15. **Disputes.** Portage Solar will have sixty (60) days from the date any Local Government notifies it in writing of any dispute related to this Agreement to: 1) determine its validity, and if valid; 2) provide a plan to reasonably address and remedy such complaint. In the event such a dispute is not resolved at the end of the sixty (60) days when either steps 1) or 2) above has occurred, the applicable Local Government shall provide written notice to Portage Solar that said dispute is not resolved. The Local Government shall provide said notice to Portage Solar within fifteen (15) days after the passage of the sixty (60) day period resulting in steps 1) or 2) (Notice of Dispute). The Notice of Dispute shall include a description of the nature of the dispute and the remedy sought by the disputing Local Government. The Parties shall endeavor to resolve the dispute by mediation with a mediator mutually acceptable to the Parties. The administration of the mediation shall be as mutually agreed by the Parties. The mediation shall be convened within thirty (30) days, or as soon thereafter as possible, of the issuance of a Notice of Dispute. The costs of the mediator shall be equally shared by the Parties. If the Parties cannot agree on a mediator, any Party may commence such action(s) as it may deem appropriate.

The Parties reserve all remedies at law or in equity necessary to cure any default or remedy any damages or losses under this Agreement, including the exercise of any rights and remedies with respect to the Decommissioning Assurance, including any such rights and remedies under applicable law then in effect. The rights and remedies of the Parties under this Agreement, whether by law or provided by this Agreement, shall be cumulative and the exercise by any Party of any one or more of such remedies shall not preclude the exercise by it at the same or different time of any such other remedies for the same event of default or breach or any of its remedies for any other default or breach by any other Party. No waiver made by a Party with respect to performance or manner or time thereof, or any obligation of any other Party or any condition to its own obligations under this Agreement shall be considered a waiver of any rights of any Party making the waiver or any other obligations of any other Party.

16. **Indemnification.**

- a. Portage Solar agrees to defend, indemnify, and hold harmless each Local Government and its supervisors, trustees, administrators, employees, and representatives (collectively the Local Government Indemnified Parties) against any and all losses, damages, claims, expenses, including reasonable attorneys' fees, and liabilities for physical damage to the property of the Local Government and for physical injury to any person, to the extent the same is a result of any activities or operations of Portage Solar, its agents and employees, for the performance or non-performance of its duties pursuant to this Agreement, except to the extent caused by the negligence or



intentional misconduct of one or more of the Local Government Indemnified Parties. Furthermore, Portage Solar agrees to defend, indemnify, and hold harmless the Local Government Indemnified Parties from any third-party claims arising out of terms and conditions of this Agreement, except to the extent that such claims are caused by the negligence or intentional misconduct of one or more of the Local Government Indemnified Parties. This indemnification obligation shall survive the termination of this Agreement.

- b. The Local Governments agree to defend, indemnify, and hold harmless Portage Solar and its owners, employees, representatives, and subcontractors (collectively the Portage Solar Indemnified Parties) against any and all losses, damages, claims, expenses, including reasonable attorneys' fees, and liabilities for physical damage to the property of Portage Solar and for physical injury to any person, to the extent the same is a result of any activities or operations of the Local Governments, its agents and employees, for the performance or non-performance of its duties pursuant to this Agreement, except to the extent caused by the negligence or intentional misconduct of Portage Solar Indemnified Parties. Furthermore, the Local Governments agree to defend, indemnify, and hold harmless the Portage Solar Indemnified Parties from any third-party claims arising out of terms and conditions of this Agreement, except to the extent that such claims are caused by the negligence or intentional misconduct of Portage Solar. This indemnification obligation shall survive the termination of this Agreement.
- c. The Local Governments are governmental entities entitled to governmental immunity under law, including Wis. Stat. § 893.80. Nothing contained herein shall waive the rights and defenses to which the Local Governments may be entitled under law, including all of the immunities, limitations, and defenses under Wis. Stats. § 893.80 or any subsequent amendments thereof.

17. **Compliance with Laws.** Portage Solar shall comply with all federal, state, and local laws, statutes, ordinances, rules, regulations, judgments, and other valid orders of any government authority with respect to its activities associated with the Project and shall obtain all material permits, licenses, and orders required to conduct any and all such activities unless otherwise preempted by Portage Solar's receipt of a CPCN.

18. **Entire Agreement.** This Agreement, including all other documents and agreements referenced herein, constitutes the entire Agreement among the Parties hereto in respect to the Project. However, this Agreement shall be deemed and read to include and incorporate any related approvals of the

Local Governments if Portage Solar agrees to such related approvals pursuant to this Agreement. In the event of a conflict between this Agreement, any related approvals by the Local Governments, or the PSCW, the PSCW's requirements shall be deemed controlling. No modification, waiver, amendment, or change of this Agreement shall be valid unless the same is in writing and signed by the Parties.

19. **Severability.** If any portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held to be invalid or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permissible by law.
20. **Waiver.** The failure of any Party to enforce any of the provisions of this Agreement shall not be construed as a waiver of such provision or of the right of the party thereafter to enforce each and every such provision.
21. **Relevant Law.** Any and all disputes arising under this Agreement and/or relating to the actual development and/or construction of the Project shall be resolved pursuant to the laws of the State of Wisconsin.
22. **Term.** The term of this Agreement shall commence on the Effective Date and, other than as described in Sections 5(d) and 16 of this Agreement, shall continue for the duration of the Project's commercial operation, including decommissioning, unless terminated by mutual agreement of the Parties or upon the commercial operation of any repowering of the Project totaling at least 25 MW.
23. **Notices.** Notices, requests, demands, and other communications shall be sent to the following addresses:

**If to Portage Solar, LLC:**

8400 Normandale Lake Boulevard, Suite 1200  
Bloomington, MN 55437

**If to Portage County:**

1516 Church Street  
Stevens Point, WI 54481

**If to Town of Grant:**

9011 County Road WW  
Wisconsin Rapids, WI 54494

If to Town of Plover:

5081 Hoover Avenue South  
Plover, WI 54467

All notices shall be in writing. Any notice shall be deemed to be sufficiently given (i) on the date, if delivered in person; (ii) five (5) days after being sent by United States registered or certified mail, postage prepaid, return receipt requested; or (iii) on the next business day if sent by overnight delivery service (e.g., Federal Express) to the notified Party at its address set forth above. These addresses shall remain in effect unless another address is substituted by written notice.

Notices may be also sent via email transmission to the email addresses provided below, however, notice sent via email shall be followed by notice delivered by personal service or by registered or certified mail, return receipt requested, or by overnight delivery.

If to Portage Solar, LLC:

NAME: Michael Young  
TITLE: General Counsel  
EMAIL: [myoung@nationalgridrenewables.com](mailto:myoung@nationalgridrenewables.com)

NAME: Amber Miller  
TITLE: Sr. Permitting Specialist  
EMAIL: [amiller@nationalgridrenewables.com](mailto:amiller@nationalgridrenewables.com)

If to Portage County:

NAME: Tim Reed  
TITLE: Planning and Zoning Department Director  
EMAIL: [reedt@co.portage.wi.gov](mailto:reedt@co.portage.wi.gov)

NAME: David Hickethier  
TITLE: Corporation Counsel  
EMAIL: [hickethd@co.portage.wi.gov](mailto:hickethd@co.portage.wi.gov)

If to Town of Grant:

NAME: Sharon Schwab  
TITLE: Town Chairperson  
EMAIL: [chair@townofgrant-portage.wi.gov](mailto:chair@townofgrant-portage.wi.gov)

NAME: Nicholas Flanagan  
TITLE: Town Attorney

EMAIL: [nbflanagan@gmail.com](mailto:nbflanagan@gmail.com)

NAME: Vicky Zimmerman

TITLE: Town Clerk

EMAIL: [clerk@townofgrant-portage.wi.gov](mailto:clerk@townofgrant-portage.wi.gov)

If to Town of Plover:

NAME: James Garbe

TITLE: Town Chairperson

EMAIL: [chair@townofplover.wi.gov](mailto:chair@townofplover.wi.gov)

NAME: Patricia Weller

TITLE: Town Clerk/Treasurer

EMAIL: [clerk@townofplover.wi.gov](mailto:clerk@townofplover.wi.gov)

NAME: Shane J. VanderWaal

TITLE: Town Attorney

EMAIL: [shanev@vanderlaw.net](mailto:shanev@vanderlaw.net)


**[SIGNATURES/ACKNOWLEDGMENTS ON FOLLOWING PAGES]**

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the year and date set forth below, and by so signing this Agreement, certify that they have been duly and properly authorized by their respective entities to make the commitments contained herein, intending them to be binding upon their respective entities and to execute this Agreement on their behalf.

PORTAGE SOLAR, LLC:

  
\_\_\_\_\_  
By: Nathan Franzen

Approved this 5<sup>th</sup> day of JANUARY, ~~2022~~ 2023


By:  Jacky Gilles (witness)  
PORTAGE COUNTY:

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

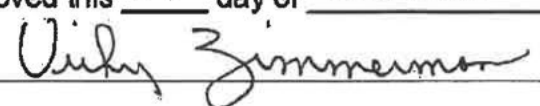
Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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

TOWN OF GRANT:

  
\_\_\_\_\_  
By: Sharon Schwab, Chair

Approved this 29 day of December, 2022.

By: 



TOWN OF PLOVER:

James Garbe

By: JAMES GARBE CHAIRMAN

Approved this 29<sup>th</sup> day of DECEMBER, 2022.

By: Patricia Kellen