

## CONFIDENTIALITY AGREEMENT

This Agreement, dated as of the \_\_\_ day of \_\_\_\_\_, 2021, is entered into by \_\_\_\_\_ (“**Bidder**”) for the benefit of Red Barn Energy, LLC, a Minnesota limited liability (“**RBE**”).

WHEREAS, Bidder is interested in the possible acquisition of real property in Grant County, Wisconsin at an auction (the “**Possible Transaction**”) conducted by RD Schrader with Schrader Real Estate and Auction Company, Inc. (the “**Auctioneer**”).

WHEREAS, the real property is subject to certain wind energy project lease and/or easement agreements with RBE (the “**Wind Agreements**”);

WHEREAS, in connection with the Possible Transaction, Bidder desires to review the Wind Agreements. RBE wishes to maintain the confidentiality of the material and information disclosed to Bidder subsequent to execution of this Agreement and to preserve to itself the commercial benefits from the use of confidential information and materials disclosed to Bidder for the limited purposes of considering the Possible Transaction, and would not make such disclosures but for the promises made by Bidder hereunder.

**THEREFORE**, the parties agree as follows:

1. **Definition of Confidential Information.** The term “Confidential Information” shall mean any the Wind Agreements and all related information disclosed by RBE to Bidder subsequent to the execution of this Agreement. All such information shall be deemed confidential and proprietary information.

2. **Use and Handling of Confidential Information.** Unless expressly authorized in writing by RBE, Bidder agrees (i) to use the Confidential Information only in connection with evaluating the Possible Transaction, (ii) to retain the Confidential Information in confidence, and to take all necessary precautions to protect such Confidential Information, including, without limitation, leaving all copies of the Wind Agreements in the office of the Auctioneer, and (iii) not to divulge any Confidential Information or any information derived therefrom to any third person.

3. **Nondisclosure of Confidential Information.** Bidder further agrees that it will not disclose Confidential Information to anyone other than those employees or other agents (“**Representatives**”) with a need to know it and who have been informed of Bidder's obligations under this Agreement. At minimum, Bidder shall inform each Representative of the confidential and proprietary nature of the Confidential Information and shall direct each Representative (i) to treat the Confidential Information confidentially, (ii) not to use the Confidential Information other than for the purposes described above, and (iii) not to disclose the Confidential Information to anyone without RBE's prior written consent. Bidder shall be responsible for any violation of these provisions by any of its Representatives. The requirements for continuing confidentiality of Confidential Information shall remain in effect indefinitely.

4. **Limitations on the Obligation with Respect to Confidential Information.** Bidder's obligation hereunder to hold Confidential Information confidential does not apply to information that is: (i) published or otherwise becomes available in the general domain through no act or failure to act on the part of Bidder; or (ii) subsequently lawfully obtained by Bidder from a third party who, to Bidder's knowledge after due inquiry, has a bona fide right to make such information available without restriction.

5. **Remedies; Indemnity.** Bidder acknowledges that the Confidential Information is valuable, and that disclosure in breach of this Agreement would result in irreparable injury to RBE for which monetary damages alone would not be an appropriate remedy. Accordingly, in the event of a

threatened or actual breach of this Agreement, RBE shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach or anticipated breach without being required to post a bond or other security. Any such relief shall be in addition to and not in lieu of any appropriate relief in the way of monetary damages. Bidder further agrees to indemnify, defend and hold harmless RBE from any damages, costs, liabilities or expenses (including reasonable attorney fees) arising from, or relating to, any breach by Bidder or its Representatives of the obligations described herein.

6. **No Representation or Warranty Regarding Confidential Information.** RBE does not make any express or implied representation or warranty as to the completeness and accuracy of any Confidential Information, and Bidder agrees that RBE shall have no liability to Bidder or any of its Representatives relating to or arising from Bidder's use of any Confidential Information or for any errors therein or omissions therefrom. Bidder is not entitled to rely on the completeness or accuracy of any Confidential Information.

7. **Notice.** All notices, demands or other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered in person, or by United States mail, certified or registered, postage prepaid, return receipt requested, or otherwise actually delivered to the appropriate party.

8. **General Provisions.** This Agreement and its validity, construction, effect, and performance shall be governed by the laws of the State of Wisconsin and each party submits to the jurisdiction and venue of any Wisconsin state or federal courts with respect to the subject matter of this Agreement. This Agreement shall be binding upon the assigns and successors of each party; provided, however, that this Agreement is shall not be assignable by Bidder without prior written consent of RBE. In the event that any provision of this Agreement shall be determined to be invalid, unlawful, void or unenforceable to any extent, the remainder of this Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law. Nothing in this Agreement shall be deemed to grant Bidder any license or transfer of any of RBE's intellectual property rights or to guarantee any future business relationship. This Agreement may not be amended except in writing. Furthermore, there are no understandings, agreements, or representations, expressed or implied, not specified herein.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed as of the date first set forth above.

**BIDDER:** \_\_\_\_\_

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

Name:

Title:

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