

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS**

PLAINTIFF, Individually and on Behalf of  
All Others Similarly Situated,

Plaintiff,

v.

SUNNOVA ENERGY INTERNATIONAL  
INC., WILLIAM J. BERGER, and ROBERT  
L. LANE,

Defendants.

**Case No.**

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff, individually and on behalf of all others similarly situated, by Plaintiff's undersigned attorneys, for Plaintiff's complaint against Defendants, alleges the following based upon personal knowledge as to Plaintiff and Plaintiff's own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through Plaintiff's attorneys, which included, among other things, a review of the Defendants' public documents, conference calls and announcements made by Defendants, United States ("U.S.") Securities and Exchange Commission ("SEC") filings, wire and press releases published by and regarding Sunnova Energy International Inc. ("Sunnova" or the "Company"), analysts' reports and advisories about the Company, and information readily obtainable on the Internet. Plaintiff believes that substantial, additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

**NATURE OF THE ACTION**

1. This is a federal securities class action on behalf of a class consisting of all persons and entities other than Defendants that purchased or otherwise acquired Sunnova securities

between February 25, 2020 and December 7, 2023, both dates inclusive (the “Class Period”), seeking to recover damages caused by Defendants’ violations of the federal securities laws and to pursue remedies under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder, against the Company and certain of its top officials.

2. Sunnova provides energy as a service in the U.S. The Company offers electricity, as well as offers operations and maintenance, monitoring, repairs and replacements, equipment upgrades, on-site power optimization, and diagnostics services. As of October 2023, the Company operated a fleet of residential solar energy systems purportedly serving over 386,000 customers.

3. In September 2023, Sunnova entered into a \$3.0 billion partial loan guarantee agreement with the U.S. Department of Energy’s (“DOE”) Loan Programs Office (“LPO”) to support solar loans originated by Sunnova under a new solar loan channel named Project Hestia (the “LPO Loan”). In a press release detailing the LPO Loan, Sunnova stated that Project Hestia was expected to “provide disadvantaged homeowners and communities with increased access to clean, flexible power via Sunnova services by indirectly and partially guaranteeing the cash flows associated with consumers’ loans” and that Sunnova’s “purpose-built technology” was “designed to improve customer insights regarding their power usage and will facilitate demand response behavior.”

4. Throughout the Class Period, Defendants made materially false and misleading statements regarding the Company’s business, operations, and compliance policies. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) Sunnova routinely engaged in predatory business practices against disadvantaged homeowners and communities, the same groups that Project Hestia was purportedly intended to benefit; (ii) the

foregoing conduct subjected the Company to a heightened risk of regulatory and/or governmental scrutiny, as well as significant reputational and/or financial harm; and (iii) as a result, the Company's public statements were materially false and misleading at all relevant times.

5. On November 22, 2023, the *Washington Free Beacon* published an article entitled "Biden Admin Gave \$3 Billion Loan to Solar Company Accused of Scamming Elderly." The article revealed that several consumer complaints had been brought against the Company for issues ranging from maintenance delays to predatory sales tactics used against elderly homeowners.

6. Then, on December 8, 2023, Representative Cathy McMorris Rodgers ("Rodgers"), Chair of the U.S. House Committee on Energy and Commerce (the "House Energy Committee"), and Senator John Barrasso ("Barrasso"), ranking member of the U.S. Senate Committee on Energy and Natural Resources (the "Senate Energy Committee"), sent a letter to the DOE and Sunnova seeking information related to the LPO Loan and Project Hestia following the release of the "disturbing" reports regarding the Company. Specifically, the letter requested additional information regarding the LPO's awareness of and treatment of Sunnova's allegedly predatory business practices.

7. On this news, Sunnova's stock price fell \$2.00 per share, or 16.12%, to close at \$10.41 per share on December 8, 2023.

8. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

## **JURISDICTION AND VENUE**

9. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

10. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and Section 27 of the Exchange Act.

11. Venue is proper in this Judicial District pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1391(b). Sunnova is headquartered in this Judicial District, Defendants conduct business in this Judicial District, and a significant portion of Defendants' actions took place within this Judicial District.

12. In connection with the acts alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications, and the facilities of the national securities markets.

## **PARTIES**

13. Plaintiff, as set forth in the attached Certification, acquired Sunnova securities at artificially inflated prices during the Class Period and was damaged upon the revelation of the alleged corrective disclosures.

14. Defendant Sunnova is a Delaware corporation with principal executive offices located at 20 East Greenway Plaza, Suite 540, Houston, Texas 77046. Sunnova's common stock trades in an efficient market on the New York Stock Exchange ("NYSE") under the ticker symbol "NOVA".

15. Defendant William J. Berger (“Berger”) has served as Sunnova’s Chief Executive Officer at all relevant times. Defendant Berger also serves as the Company’s Chairman of the Board and President.

16. Defendant Robert L. Lane (“Lane”) has served as Sunnova’s Chief Financial Officer at all relevant times. Defendant Lane also serves as the Company’s Executive Vice President.

17. Defendants Berger and Lane are sometimes referred to herein collectively as the “Individual Defendants”.

18. The Individual Defendants possessed the power and authority to control the contents of Sunnova’s SEC filings, press releases, and other market communications. The Individual Defendants were provided with copies of Sunnova’s SEC filings and press releases alleged herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or to cause them to be corrected. Because of their positions with Sunnova, and their access to material information available to them but not to the public, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to and were being concealed from the public, and that the positive representations being made were then materially false and misleading. The Individual Defendants are liable for the false statements and omissions pleaded herein.

19. Sunnova and the Individual Defendants are collectively referred to herein as “Defendants”.

## **SUBSTANTIVE ALLEGATIONS**

### **Background**

20. Sunnova provides energy as a service in the U.S. The Company offers electricity, as well as offers operations and maintenance, monitoring, repairs and replacements, equipment upgrades, on-site power optimization, and diagnostics services.

### **Materially False and Misleading Statements Issued During the Class Period**

21. The Class Period begins on February 25, 2020, when Sunnova filed an Annual Report on Form 10-K with the SEC, reporting the Company's financial and operational results for the quarter and year ended December 31, 2019 (the "2019 10-K"). In providing an overview of the Company, the 2019 10-K stated, in relevant part:

We are a leading residential solar and energy storage service provider, serving more than 80,000 customers in more than 20 United States ("U.S.") states and territories. Our goal is to be the leading provider of clean, affordable and reliable energy for consumers, and we operate with a simple mission: to power energy independence. We were founded to deliver customers a better energy service at a better price; and, through our solar and solar plus energy storage service offerings, we are disrupting the traditional energy landscape and the way the 21st century customer generates and consumes electricity.

We have a differentiated residential solar dealer model in which we partner with local dealers who originate, design and install our customers' solar energy systems and energy storage systems on our behalf. Our focus on our dealer model enables us to leverage our dealers' specialized knowledge, connections and experience in local markets to drive customer origination while providing our dealers with access to high quality products at competitive prices and technical oversight and expertise. We believe this structure provides operational flexibility, reduced exposure to labor shortages and lower fixed costs relative to our peers, furthering our competitive advantage.

We offer customers products to power their homes with affordable solar energy. We are able to offer savings and storage opportunities to most customers compared to utility-based retail rates with little to no up-front expense to the customer, and we are able to provide energy resiliency and reliability to our solar plus energy storage customers. Our solar service agreements take the form of a lease, power purchase agreement ("PPA") or loan. The initial term of our solar service agreements is typically either 10 or 25 years. Service is an integral part of

our agreements and includes operations and maintenance, monitoring, repairs and replacements, equipment upgrades, on-site power optimization for the customer (for both supply and demand), the ability to efficiently switch power sources among the solar panel, grid and energy storage system, as appropriate, and diagnostics. During the life of the contract we have the opportunity to integrate related and evolving home servicing and monitoring technologies to upgrade the flexibility and reduce the cost of our customers' energy supply.

22. Further, in discussing the Company's customer agreements, the 2019 10-K stated, in relevant part:

We focus on growing a geographically diverse customer base with a strong credit profile. We perceive our recurring customer payments as high-quality assets given the broad and relatively inelastic demand for electricity and because our customers typically have high credit scores. As of December 31, 2019, our customers had, at the time of signing the solar service agreement, an average FICO® score of 739. The purpose of our stringent credit approval policy is to ensure reliability of collecting payment over the duration of the solar service agreements. As of December 31, 2019, approximately 0.8% of our customers were in default (over 120 days past due) under their solar service agreements.

Most of our solar service agreements have an initial term of 25 years with an opportunity for customers to renew for up to an additional 10 years via two five-year renewal periods. The customer is obligated to make payments to us on a monthly basis and we operate and maintain the solar energy system and energy storage system, if applicable, in good condition throughout the duration of the agreement. Under our lease agreements and PPAs, the customer's monthly payment or price per kilowatt hour ("kWh") is set based on a calculation that takes into account expected solar energy generation. The customer has an option of choosing a flat rate without an escalator or a lower initial rate with an escalator. As of December 31, 2019, approximately 68% of our lease agreements and PPAs contained a price escalator, ranging from 0.9% to 3.0% annually.

*Our solar service agreements are designed to offer the customer energy cost savings and bill stability relative to centralized utility prices, often resulting in an immediate reduction in the customer's overall utility bill, with little or no upfront costs.*<sup>1</sup>

23. Appended to the 2019 10-K as exhibits were signed certifications pursuant to the Sarbanes-Oxley Act of 2002 ("SOX") by the Individual Defendants, attesting that "the information

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<sup>1</sup> All emphases included herein are added unless otherwise noted.

contained in the [2019 10-K] fairly presents, in all material respects, the financial condition and results of operations of the [Company].”

24. That same day, Sunnova hosted an earnings call with investors and analysts to discuss the Company’s Q4 2019 results (the “Q4 2019 Earnings Call”). During the scripted portion of the Q4 2019 Earnings Call, Defendant Berger stated, in relevant part:

We closed out the year with another quarter of strong operational and financial results. 2019 was the year Sunnova became the industry leader in growth rate. Throughout the year, we increased our customer base, expanded our dealer network, lowered our cost of capital and boosted our storage attachment rates. As a result, we were able to meet, and in most cases, exceed our 2019 guidance targets.

In Q4 2019 alone, we added 6,000 new customers, which is a 20% increase from what was added just last quarter and an 84% increase over the fourth quarter in 2018. For all of 2019, we grew our customer base at a rate of 30%. We are excited about the year ahead as we continue to acquire customers at a pace that is only continuing to quicken. Due to this increasing growth rate later in the call, we will update the 2020 guidance ranges we discussed in our third quarter 2019 earnings call.

25. On May 14, 2020, Sunnova issued a press release announcing the Company’s Q1 2020 financial results. The press release stated, in relevant part:

“As a leading residential solar and storage provider in the United States, Sunnova has a deep commitment to providing best-in-class energy service to our customers, in good times and in bad. As the world learns how to navigate the many challenges brought on by the COVID-19 pandemic, we realize that the work we do has become more essential than ever before,” said [Defendant] Berger[.] “Despite these challenges, as a designated essential service provider, we responded quickly and decisively in the early days of COVID-19 to ensure not only the health and safety of our customers, dealers, and employees, but to also ensure our customers continued to receive the highest level of service.[”]

26. On May 15, 2020, Sunnova hosted an earnings call with investors and analysts to discuss the Company’s Q1 2020 results (the “Q1 2020 Earnings Call”). During the scripted portion of the Q1 2020 Earnings Call, Defendant Berger stated, in relevant part:

While I cannot promise what the future will hold, *I do know that Sunnova will continue to be a leader to our customers, our dealers, our lenders, our*

*shareholders, and the communities we serve.* And thanks to the ample amount of liquidity we have secured, and the strength and flexibility of our business model, we are better positioned than anyone in the industry to not only get through this current crisis, but to navigate any additional challenges these uncertain times may bring.

27. On October 28, 2020, Sunnova issued a press release announcing the Company's Q3 2020 results. The press release quoted Defendant Berger stating, in relevant part:

As weather driven instability of regional power grids becomes increasingly intolerable for consumers and the integration of new technologies behind the meter grows, energy service providers like Sunnova will become even more attractive to homeowners. Driven by these rapid changes in technology, and a growing consumer appetite for cleaner, more reliable, and less expensive energy, ***Sunnova is well positioned to become the leading wireless power provider that consumers choose to power their energy independence.***

28. On February 24, 2021, Sunnova issued a press release announcing the Company's Q4 and full year 2020 results. The press release quoted Defendant Berger stating, in relevant part, "Sunnova is well positioned to navigate the current market environment and to lead a decarbonized and decentralized energy transition while providing our customers with a better energy service at a better price."

29. On February 25, 2021, Sunnova filed an Annual Report on Form 10-K with the SEC, reporting the Company's financial and operational results for the quarter and year ended December 31, 2020 (the "2020 10-K"). The 2020 10-K contained substantively similar descriptions of the Company's business and customer agreements as discussed, *supra*, in ¶¶ 21-22.

30. Appended to the 2020 10-K as exhibits were signed certifications pursuant to SOX by the Individual Defendants, attesting that "the information contained in the [2020 10-K] fairly presents, in all material respects, the financial condition and results of operations of the [Company]."

31. On April 12, 2021, Sunnova published its 2020 Environmental, Social, and Governance Report (the “2020 ESG Report”). With respect to strategy, the 2020 ESG Report stated, in relevant part:

At Sunnova, we believe that sustainability is the foundation of a strong business and a better tomorrow. We seek to inspire positive social change and foster a culture of integrity, performance, and ethical business practices. Beyond the impact of our core business, we focus our attention on areas where we believe we can make the biggest positive environmental impact. We are working to reduce the impact of our operations in order to reduce our carbon footprint and improve efficiency.

32. Further, with respect to corporate governance, the 2020 ESG Report stated, in relevant part:

At Sunnova, we are committed to leading with integrity, fostering a culture of honesty, maximizing performance, and embracing ethical business practices.

Because ESG is a top priority, we formalized its oversight at the Board level through our Nominating and Governance Committee in October 2020. The Committee is responsible for overseeing our ESG approach, strategy, and performance, and has adopted these responsibilities as outlined in our Committee Charter. We conduct our business in a responsible manner with oversight by our Board of Directors and executive management in compliance with our ethics and compliance policies and programs.

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Our Code of Conduct describes the entrepreneurial spirit on which Sunnova was built and the high standards by which we conduct business. These standards reflect our core values and drive us to achieve our mission. We expect all of our business partners, including our Dealers and Vendors, to follow the laws and regulations where they operate and to share our commitment to ethics, sustainability, environmental stewardship, health and safety, human rights, and labor issues. We conduct our business in a responsible manner with oversight by our Board of Directors and executive management in compliance with our ethics and compliance policies and programs.

33. On April 28, 2021, Sunnova issued a press release announcing the Company’s Q1 2021 financial results. The press release stated, in relevant part:

“Sunnova’s strong first quarter results and continued rapid growth reiterates the power of our business model and capitalization strategy,” said [Defendant]

Berger[.] ***“Our rapid growth has been made possible through the value of the Sunnova Network, whereby software and services enable aggregation capabilities to create additional value for our customers, dealers and equipment partners.[”]***

34. On April 29, 2021, Sunnova hosted an earnings call with investors and analysts to discuss the Company’s Q1 2021 results (the “Q1 2021 Earnings Call”). During the scripted portion of the Q1 2021 Earnings Call, Defendant Berger stated, in relevant part:

We are also committed to upholding strong corporate governance practices and conducting business the right way as our core values of service, synergy, and sustainability underpin our corporate culture. We look forward to continuing our work on ESG and will continue to communicate our progress over time.

35. On July 28, 2021, Sunnova issued a press release announcing the Company’s Q2 2021 financial results. The press release stated, in relevant part:

“The residential solar industry has entered a new phase of maturation and growth and with it a new value proposition for customers has emerged. Where it was once solely focused on the product and savings, the customer value proposition is now acutely focused on reliability and resiliency as well as savings,” said [Defendant] Berger[.] ***“Customers are now expecting a long-term energy service offering that is fast and intelligent. To meet this need, we have dedicated resources to building out our end-to-end software platform, which contains capabilities such as quoting tools for dealers, predictive service analytics for customers, and grid services software for aggregation.***

“Our field service technicians and customer care team are increasingly providing higher quality services at a quicker pace to our growing customer base. Service delivery must be quick, accurate, and predictive as new technologies such as batteries, load managers, electric vehicle chargers, and secondary generation enter the market. ***Service is becoming the crucial differentiator in the residential energy industry, and Sunnova continues to position itself as the industry leader for wireless power services.***”

36. On July 29, 2021, Sunnova hosted an earnings call with investors and analysts to discuss the Company’s Q2 2021 results (the “Q2 2021 Earnings Call”). During the scripted portion of the Q2 2021 Earnings Call, Defendant Berger stated, in relevant part:

Our dedicated field service technicians and customer care team are increasingly providing higher quality service at a quicker pace to our growing customer base. The Sunnova-employed service team is focused on delivering unparalleled energy

service quickly, accurately, and predicatively as new technologies such as batteries, load managers, electric vehicle chargers, and secondary generation enter the market. Service is becoming the crucial differentiator in the residential energy industry and Sunnova continues to position itself as the industry leader for service.

37. On October 27, 2021, Sunnova issued a press release announcing the Company's Q3 2021 financial results. The press release stated, in relevant part:

“At Sunnova, we are committed to providing an unparalleled energy experience to our customers. We see brand and service as the critical differentiators in our industry and we are continuing to develop our technological, operational, and logistical capabilities to improve the quality and response time of the energy service we provide. As more equipment manufacturers enter our rapidly growing industry and broaden their equipment offerings, it has become clear that consumers require a service provider who integrates all of the capabilities and technological advancements into a simple, seamless, and integrated energy system that is backed up with quick and efficient service - and that is who Sunnova is. Our vision is to be a wireless power provider and it is our goal to electrify the home for our customers so that they have the freedom to live life uninterrupted.”

38. On October 28, 2021, Sunnova hosted an earnings call with investors and analysts to discuss the Company's Q3 2021 results (the “Q3 2021 Earnings Call”). During the scripted portion of the Q3 2021 Earnings Call, when discussing the Company's “unique and unparalleled service commitment to customers,” Defendant Berger stated, in relevant part:

Launching first in select key markets, we have established a goal well beyond that of any other residential energy service provider. To provide service within 72 hours for our solar-only customers and within 24 hours for our solar plus storage customers. This responsiveness, when combined with the resilience of our storage product offering, amounts to a superior energy experience for customers who are frustrated with the increasing cost and decreasing reliability they experience with a monopoly power provider.

We will accomplish this goal by accelerating the build-out of our software platform, continuing to build up our highly experienced and professionally managed service team, and continuously improve our logistics capabilities. This unprecedented service commitment will allow us to provide our customers with the power to live life uninterrupted. In time, it is our goal for the Sunnova name to be synonymous with the best energy service in the world.

39. On February 23, 2022, Sunnova issued a press release announcing the Company's Q4 and full year 2021 financial results. The press release stated, in relevant part:

“In 2021, we saw the resiliency of our people, our dealers, our business model, and capitalization strategy help Sunnova navigate economic and regulatory uncertainties. As centralized utilities continue to rapidly increase their rates, Sunnova is able to provide its customers even greater savings through an energy service that is more reliable, more resilient, and more environmentally sustainable.”

40. On February 24, 2022, Sunnova filed an Annual Report on Form 10-K with the SEC, reporting the Company's financial and operational results for the quarter and year ended December 31, 2021 (the “2021 10-K”). The 2021 10-K contained substantively similar descriptions of the Company's business and customer agreements as discussed, *supra*, in ¶¶ 21-22.

41. Appended to the 2021 10-K as exhibits were signed certifications pursuant to SOX by the Individual Defendants, attesting that “the information contained in the [2021 10-K] fairly presents, in all material respects, the financial condition and results of operations of the [Company].”

42. On April 12, 2022, Sunnova published its 2021 Environmental, Social and Governance Report (the “2021 ESG Report”). With respect to corporate governance, the 2021 ESG Report stated, in relevant part:

At Sunnova, we are committed to leading with integrity, fostering a culture of honesty, maximizing performance and embracing ethical business practices.

This year, with oversight from the Nominating, Corporate Governance and Sustainability Committee, we made great strides in refining our ESG approach, strategy and performance as outlined in our Committee Charter. We conduct our business in a responsible manner with oversight by our Board of Directors and executive management in compliance with our ethics and compliance policies and programs.

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We seek to empower Sunnova employees to be champions of ESG within their roles and responsibilities. Our vision is to embed ESG throughout the organization through continuous education and engagement.

43. On April 28, 2022, Sunnova hosted an earnings call with investors and analysts to discuss the Company's Q1 2022 results (the "Q1 2022 Earnings Call"). During the scripted portion of the Q1 2022 Earnings Call, Defendant Berger stated, in relevant part:

Earlier in the month, we published our second annual ESG report, detailing the steps we have taken over the last twelve months to enhance our ESG strategy and reporting. Our new report, titled "Charging Ahead", describes the impact of the growth we have seen this year and how we are integrating ESG best practices into our core business to drive positive outcomes for our business and society.

Building off our first report last year, our next step was to establish a more formal forward-looking strategy. To start this process, we conducted a materiality assessment to identify the ESG topics that were most important to our business and to our stakeholders. We engaged our employees, investors, community partners, vendors, and other groups to assess ESG-related topics. From this assessment, we identified nine priority ESG topics for our business, as well as others that we consider material. The results of this assessment can be found in our new report.

44. On July 27, 2022, Sunnova issued a press release announcing the Company's Q2 2022 financial results. The press release stated, in relevant part:

"High inflation and overall economic distress is further reinforcing the value of the cost savings and predictable nature of the essential energy services Sunnova provides," said [Defendant] Berger[.] "As centralized utilities continue to increase their rates, demand remains strong for our energy services while homeowners seek to offset rising energy costs and increase their energy reliability. ***In light of inflationary pressures, consumers are facing tough budgeting choices, but Sunnova will continue to provide a better energy service at a better price to ensure our customers can afford the energy they need to power their lives.***

45. On October 26, 2022, Sunnova issued a press release announcing the Company's Q3 2022 financial results. The press release stated, in relevant part:

"In the third quarter, we took action to fortify our liquidity and satisfy our planned 2023 corporate capital needs ahead of schedule through a timely capital raise, putting the company in an excellent financial position with a strong balance sheet," said [Defendant] Berger[.] "***Our record low customer default and delinquency rates and customer feedback clearly show that consumers do not see us as merely***

*providing financing but providing an essential service to them.* Sunnova is optimally positioned to benefit from this strong consumer demand for its energy service, catalyzed by a combination of our focus on service, the Inflation Reduction Act, and the global energy crisis, as homeowners look to avoid rising utility bills that they must pay.[”]

46. On February 23, 2023, Sunnova filed an Annual Report on Form 10-K with the SEC, reporting the Company’s financial and operational results for the quarter and year ended December 31, 2022 (the “2022 10-K”). The 2022 10-K contained substantively similar descriptions of the Company’s business and customer agreements as discussed, *supra*, in ¶¶ 21-22.

47. Appended to the 2022 10-K as exhibits were signed certifications pursuant to SOX by the Individual Defendants, attesting that “the information contained in the [2022 10-K] fairly presents, in all material respects, the financial condition and results of operations of the [Company].”

48. On April 20, 2023, Sunnova issued a press release announcing the DOE’s conditional commitment to the LPO Loan. The press release stated, in relevant part:

Sunnova [. . .] today announced a conditional commitment by the [LPO] to provide an up to \$3.0 billion partial loan guarantee, which equates to a 90% guarantee of up to \$3.3 billion of financing to support loans originated by Sunnova under a new solar loan channel named “Project Hestia.”

Project Hestia would provide disadvantaged individuals and communities with increased access to Sunnova services by indirectly and partially guaranteeing the cash flows associated with those consumers’ loans. To be eligible, each energy system must be outfitted with Sunnova’s purpose-built technology, accessible by smart phone or other personal electronic device. The technology is designed to improve customer insights regarding their power usage and will facilitate demand response behavior. Sunnova believes this approach is expected to expand access to Sunnova’s EaaS offerings, lay the foundation for future virtual power plant (VPP) activities, decrease greenhouse gas emissions, and increase the demand response impact of residential power systems.

49. On April 26, 2023, Sunnova issued a press release announcing the Company's Q1 2023 financial results. The press release stated, in relevant part:

“Our strong growth trajectory can be attributed to our continuous investments in software, service, and multiple channels for growth, which have allowed Sunnova to increase market share and widen its total addressable market. Just last week, we announced a conditional commitment with the [LPO] to expand access to Sunnova's Energy as a Service offerings, potentially adding to our growth by making our energy services accessible to homeowners who may not have qualified without this commitment. We are dedicated to delivering the highest quality service to our customers and to our communities.”

50. On April 27, 2023, Sunnova hosted an earnings call with investors and analysts to discuss the Company's Q1 2023 results (the “Q1 2023 Earnings Call”). During the scripted portion of the Q1 2023 Earnings Call, Defendant Berger stated, in relevant part:

The robust demand for our energy services, as described on our previous earnings calls, has persisted throughout the balance of the first quarter and into the month of April. This strong demand can be attributed to our ability to offer customers more affordable energy, higher reliability, and exceptional customer service relative to the centralized power monopolies.

Our commitment to providing a superior energy service sets us apart as industry leaders. We provide responsive and reliable service to our valued customers, utilizing cutting-edge technologies to efficiently manage energy supply and demand through our Sunnova software platform, which powers our seamless Sunnova Adaptive Home, Sunnova Adaptive Business, and Sunnova Adaptive Community service experiences.

51. On May 1, 2023, Sunnova published its 2022 Sustainability Report. With respect to the Company's sustainability strategy, the 2022 Sustainability Report stated, in relevant part:

In keeping with our values of Service, Synergy, and Sustainability, we are committed to continually improving our management of sustainability matters and their impact on our business. Our sustainability strategy serves to complement our corporate objectives, mitigate risks to the business and maximize our impact for our customers, employees, investors, communities, and other stakeholders. We frequently evaluate sustainability risks and opportunities through processes that include materiality assessments, annual risk management evaluations, and regular engagement with stakeholders to ensure we meet their needs.

52. Further, with respect to the Company's customer service, the 2022 Sustainability

Report stated, in relevant part:

As a leading Energy as a Service (EaaS) provider, we are providing a less expensive, more reliable, and cleaner energy service experience to our customers, ultimately, transforming the way people power their homes and businesses. With our energy services, our customers are achieving greater energy independence, resilience, and cost savings while reducing their environmental footprint.

It is our unwavering commitment to providing exceptional customer service that helps sets us apart in our industry.

53. Finally, with respect to corporate governance, the 2022 Sustainability Report stated, in relevant part:

At Sunnova, we are committed to leading with integrity, fostering a culture of honesty, maximizing performance, and embracing ethical business practices.

As a responsible and sustainable business, we believe that good governance is essential to achieving our long-term goals and creating value for our stakeholders. We are committed to maintaining a high standard of corporate governance, which includes oversight of sustainability issues. Our approach to governance involves a commitment to transparency, accountability, and continuous improvement. We understand that good governance is not just a matter of compliance, but it is also a way of building trust and maintaining strong relationships with our stakeholders.

54. On July 26, 2023, Sunnova issued a press release announcing the Company's Q2 2023 financial results. The press release stated, in relevant part:

"Our leading Energy as a Service business model, which is supported by three fundamental pillars - scale, service, and the retention of long-term contracted cash flows - has firmly established us as an industry leader quarter over quarter," said Defendant Berger[.] "We are rapidly achieving scale as evidenced by another record number of customers placed into service in the second quarter. This impressive customer growth is a testament to our commitment to providing exceptional service and meeting the needs of our expanding customer base. As a result, we are once again increasing our customer additions guidance by 10,000 customers at the midpoint. We are already in the customer contracting phase for 2024, and, given our strong growth momentum, we are projecting 40% customer growth over 2023.

"We are committed to providing exceptional and timely service. We expect our 24-hour service guarantee, currently in four markets and growing to seven by year-

end, to reach 70% of our customer base. This unparalleled focus on service further solidifies our position as the industry leader in Energy as a Service, and allows our customers to gain access to reliable, affordable, and sustainable energy solutions.[”]

55. On September 28, 2023, Sunnova issued a press release announcing that the Company had entered into the LPO Loan. The press release stated, in relevant part:

“Today marks the beginning of an exciting chapter in our pursuit of a cleaner and more equitable energy landscape. With our collaboration with the [DOE], we are embarking on a journey that expands clean energy access and delivers economic benefit to Americans in disadvantaged communities,” said [Defendant] Berger[.] “This partnership reflects our commitment to innovation with purpose.”

56. On October 19, 2023, Sunnova issued a press release entitled “Sunnova Prices First Project Hestia Securitization of Residential Solar and Battery Systems.” The press release stated, in relevant part:

Sunnova [. . .] today announced the pricing of its Hestia I securitization, which indirectly benefits from [the LPO Loan].

“Project Hestia stands as a testament to Sunnova and the DOE’s unwavering commitment to spearheading transformative initiatives that benefit customers, empower communities, and enhance the overall energy landscape in the United States,” said [Defendant] Berger[.] “This successful pricing of Project Hestia’s first securitization showcases our continuing dedication to pioneering sustainable, reliable, and cost-effective energy solutions.”

57. The statements referenced in ¶¶ 21-56 were materially false and misleading because Defendants made false and/or misleading statements, as well as failed to disclose material adverse facts about the Company’s business, operations, and compliance policies. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) Sunnova routinely engaged in predatory business practices against disadvantaged homeowners and communities, the same groups that Project Hestia was purportedly intended to benefit; (ii) the foregoing conduct subjected the Company to a heightened risk of regulatory and/or governmental

scrutiny, as well as significant reputational and/or financial harm; and (iii) as a result, the Company's public statements were materially false and misleading at all relevant times.

### **The Truth Emerges**

58. On November 22, 2023, the *Washington Free Beacon* published an article entitled “Biden Admin Gave \$3 Billion Loan to Solar Company Accused of Scamming Elderly.” The article stated, in relevant part:

A solar company that was awarded a \$3 billion Department of Energy loan has been accused of scamming dementia patients on their deathbeds into signing five-figure, multi-decade solar panel leases, according to interviews and state consumer complaint records obtained by the *Washington Free Beacon*.

Terry Blythe, a Texas resident, told the *Washington Free Beacon* that her father was 86 years old and had been diagnosed with dementia when a door-to-door Sunnova salesman persuaded him to sign a 25-year solar panel lease in 2020. When her father passed away earlier this year, Blythe said she was left to grapple with the \$34,000 contract.

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Blythe's is one of over 50 consumer complaints that have been filed against Sunnova with the Texas attorney general's office since last year, for issues ranging from maintenance delays to allegedly predatory sales tactics.

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Sen. John Barrasso (R., Wyo.), the top Republican on the Senate Energy and Natural Resources Committee, and other lawmakers have been investigating potential conflicts of interest at the DOE's Loan Programs Office (LPO), including its funding to Sunnova.

Before LPO director Jigar Shah joined the Biden administration, he founded and led a trade association called Cleantech Leaders Roundtable, which shares a board member with Sunnova. Cleantech Leaders Roundtable has become a gatekeeper for companies seeking loans from Shah's office, cohosting paid events for its members with the LPO director, the Free Beacon reported in October.

“The potential for conflicts of interest, especially in light of a \$3 billion loan approval for Sunnova, a company who shares a board member with Cleantech Leaders Roundtable, cannot be overlooked,” said Barrasso in a letter to DOE's ethics counsel Susan Beard this month.

59. Then, on December 8, 2023, House Energy Committee Chair Rodgers and Senate Energy Committee ranking member Barrasso sent a letter to the DOE and Sunnova seeking information related to the LPO Loan following the release of the reports regarding the Company's business practices. The letter stated, in relevant part:

We write to you regarding disturbing reports about Sunnova Energy Corporation (Sunnova), a residential solar company, to which the Department of Energy's (DOE) Loan Programs Office (LPO) recently awarded a \$3 billion partial loan guarantee.

Billed as "the single largest commitment ever made by the Federal Government to solar power," LPO closed this partial loan guarantee to Sunnova's "Project Hestia" on September 28, 2023.[] According to LPO, this project will make distributed energy resources and virtual power plant software available to more Americans by providing loans to approximately 75,000 to 115,000 homeowners for clean energy systems.[] This project will focus on households in disadvantaged communities, aiming to provide at least 20 percent of loans to customers with FICO credit scores of 680 or less and up to 20 percent of loans to homeowners in Puerto Rico.

We are alarmed about recent, credible reports that Sunnova has racked up numerous consumer complaints, including those alleging troubling sales practices, such as Sunnova pressing elderly homeowners in poor health to sign long-term contracts costing tens of thousands of dollars.[] These reports cite interviews with individuals who struggled to deal with large contracts that their elderly parents signed shortly before passing away as well as state consumer complaints alleging maintenance delays and predatory sales strategies.[] For example, one woman interviewed stated that a door-to-door Sunnova salesman sold her father—who she characterized as in hospice care—a \$60,000 solar system for his mobile home shortly before his death.

Additional reports suggest these troubling reports are not isolated incidents. For example, while Project Hestia will target Puerto Rican homeowners for 20 percent of its loans, its residents have previously experienced major problems with Sunnova's services there. By 2017, Puerto Rico's Independent Office of Consumer Protection reportedly received over 1,000 complaints regarding Sunnova systems that include claims of misleading consumers and failing to deliver lower energy bills as promised.[] In 2019, the Puerto Rican Energy Bureau also released a report confirming the validity of numerous consumer complaints it received. These included complaints of consumers accidentally signing up for 25-year contracts, consumers being misled about potential savings with solar panels, and Sunnova not fully revealing the costs of financing these solar panels to consumers.[] Residents

in other parts of the country have also reported problems with Sunnova systems, including deceptive sales practices.[] These allegations are particularly troubling, as LPO has stated this program will focus on disadvantaged communities.

60. On this news, Sunnova's stock price fell \$2.00 per share, or 16.12%, to close at \$10.41 per share on December 8, 2023.

61. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

### **SCIENTER ALLEGATIONS**

62. During the Class Period, Defendants had both the motive and opportunity to commit fraud. They also had actual knowledge of the misleading nature of the statements they made, or acted in reckless disregard of the true information known to them at the time. In so doing, Defendants participated in a scheme to defraud and committed acts, practices, and participated in a course of business that operated as a fraud or deceit on purchasers of the Company's securities during the Class Period.

### **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

63. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired Sunnova securities during the Class Period (the "Class"); and were damaged upon the revelation of the alleged corrective disclosures. Excluded from the Class are Defendants herein, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

64. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Sunnova securities were actively traded on the NYSE. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Sunnova or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

65. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

66. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

67. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- whether the federal securities laws were violated by Defendants' acts as alleged herein;
- whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of Sunnova;
- whether the Individual Defendants caused Sunnova to issue false and misleading financial statements during the Class Period;
- whether Defendants acted knowingly or recklessly in issuing false and misleading financial statements;

- whether the prices of Sunnova securities during the Class Period were artificially inflated because of the Defendants' conduct complained of herein; and
- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

68. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

69. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-on-the-market doctrine in that:

- Defendants made public misrepresentations or failed to disclose material facts during the Class Period;
- the omissions and misrepresentations were material;
- Sunnova securities are traded in an efficient market;
- the Company's shares were liquid and traded with moderate to heavy volume during the Class Period;
- the Company traded on the NYSE and was covered by multiple analysts;
- the misrepresentations and omissions alleged would tend to induce a reasonable investor to misjudge the value of the Company's securities; and
- Plaintiff and members of the Class purchased, acquired and/or sold Sunnova securities between the time the Defendants failed to disclose or misrepresented material facts and the time the true facts were disclosed, without knowledge of the omitted or misrepresented facts.

70. Based upon the foregoing, Plaintiff and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

71. Alternatively, Plaintiff and the members of the Class are entitled to the presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v. United States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as Defendants omitted material information in their Class Period statements in violation of a duty to disclose such information, as detailed above.

## **COUNT I**

### **(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder Against All Defendants)**

72. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

73. This Count is asserted against Defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

74. During the Class Period, Defendants engaged in a plan, scheme, conspiracy and course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions, practices and courses of business which operated as a fraud and deceit upon Plaintiff and the other members of the Class; made various untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and employed devices, schemes and artifices to defraud in connection with the purchase and sale of securities. Such scheme was intended to, and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of Sunnova securities; and (iii) cause Plaintiff and other members of the Class to purchase or otherwise acquire Sunnova securities and options at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set forth herein.

75. Pursuant to the above plan, scheme, conspiracy and course of conduct, each of the Defendants participated directly or indirectly in the preparation and/or issuance of the quarterly and annual reports, SEC filings, press releases and other statements and documents described above, including statements made to securities analysts and the media that were designed to influence the market for Sunnova securities. Such reports, filings, releases and statements were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about Sunnova's finances and business prospects.

76. By virtue of their positions at Sunnova, Defendants had actual knowledge of the materially false and misleading statements and material omissions alleged herein and intended thereby to deceive Plaintiff and the other members of the Class, or, in the alternative, Defendants acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose such facts as would reveal the materially false and misleading nature of the statements made, although such facts were readily available to Defendants. Said acts and omissions of Defendants were committed willfully or with reckless disregard for the truth. In addition, each Defendant knew or recklessly disregarded that material facts were being misrepresented or omitted as described above.

77. Information showing that Defendants acted knowingly or with reckless disregard for the truth is peculiarly within Defendants' knowledge and control. As the senior managers and/or directors of Sunnova, the Individual Defendants had knowledge of the details of Sunnova's internal affairs.

78. The Individual Defendants are liable both directly and indirectly for the wrongs complained of herein. Because of their positions of control and authority, the Individual Defendants were able to and did, directly or indirectly, control the content of the statements of

Sunnova. As officers and/or directors of a publicly-held company, the Individual Defendants had a duty to disseminate timely, accurate, and truthful information with respect to Sunnova's businesses, operations, future financial condition and future prospects. As a result of the dissemination of the aforementioned false and misleading reports, releases and public statements, the market price of Sunnova securities was artificially inflated throughout the Class Period. In ignorance of the adverse facts concerning Sunnova's business and financial condition which were concealed by Defendants, Plaintiff and the other members of the Class purchased or otherwise acquired Sunnova securities at artificially inflated prices and relied upon the price of the securities, the integrity of the market for the securities and/or upon statements disseminated by Defendants, and were damaged thereby.

79. During the Class Period, Sunnova securities were traded on an active and efficient market. Plaintiff and the other members of the Class, relying on the materially false and misleading statements described herein, which the Defendants made, issued or caused to be disseminated, or relying upon the integrity of the market, purchased or otherwise acquired shares of Sunnova securities at prices artificially inflated by Defendants' wrongful conduct. Had Plaintiff and the other members of the Class known the truth, they would not have purchased or otherwise acquired said securities, or would not have purchased or otherwise acquired them at the inflated prices that were paid. At the time of the purchases and/or acquisitions by Plaintiff and the Class, the true value of Sunnova securities was substantially lower than the prices paid by Plaintiff and the other members of the Class. The market price of Sunnova securities declined sharply upon public disclosure of the facts alleged herein to the injury of Plaintiff and Class members.

80. By reason of the conduct alleged herein, Defendants knowingly or recklessly, directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

81. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases, acquisitions and sales of the Company's securities during the Class Period, upon the disclosure that the Company had been disseminating misrepresented financial statements to the investing public.

## **COUNT II**

### **(Violations of Section 20(a) of the Exchange Act Against the Individual Defendants)**

82. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

83. During the Class Period, the Individual Defendants participated in the operation and management of Sunnova, and conducted and participated, directly and indirectly, in the conduct of Sunnova's business affairs. Because of their senior positions, they knew the adverse non-public information about Sunnova's misstatement of income and expenses and false financial statements.

84. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to Sunnova's financial condition and results of operations, and to correct promptly any public statements issued by Sunnova which had become materially false or misleading.

85. Because of their positions of control and authority as senior officers, the Individual Defendants were able to, and did, control the contents of the various reports, press releases and

public filings which Sunnova disseminated in the marketplace during the Class Period concerning Sunnova's results of operations. Throughout the Class Period, the Individual Defendants exercised their power and authority to cause Sunnova to engage in the wrongful acts complained of herein. The Individual Defendants, therefore, were "controlling persons" of Sunnova within the meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct alleged which artificially inflated the market price of Sunnova securities.

86. Each of the Individual Defendants, therefore, acted as a controlling person of Sunnova. By reason of their senior management positions and/or being directors of Sunnova, each of the Individual Defendants had the power to direct the actions of, and exercised the same to cause, Sunnova to engage in the unlawful acts and conduct complained of herein. Each of the Individual Defendants exercised control over the general operations of Sunnova and possessed the power to control the specific activities which comprise the primary violations about which Plaintiff and the other members of the Class complain.

87. By reason of the above conduct, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act for the violations committed by Sunnova.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

- A. Determining that the instant action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representative;
- B. Requiring Defendants to pay damages sustained by Plaintiff and the Class by reason of the acts and transactions alleged herein;
- C. Awarding Plaintiff and the other members of the Class prejudgment and post-judgment interest, as well as their reasonable attorneys' fees, expert fees and other costs; and

D. Awarding such other and further relief as this Court may deem just and proper.

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a trial by jury.