

FIRST AMENDMENT TO THE AMENDED AND RESTATED MASTER ENGINEERING, PROCUREMENT AND CONSTRUCTION SERVICES AGREEMENT

THIS FIRST AMENDMENT TO THE AMENDED AND RESATED MASTER ENGINEERING, PROCUMENT AND CONSTRUCTION SERVICES AGREEMENT (the "Amendment") is dated as of December 1, 2017 (the "Effective Date") by and between Bright Power, Inc., a California corporation ("Contractor") and Blue Sky Utility 2017 III, LLC, a California limited liability company ("Owner"), Contractor and Owner are sometimes referred to herein individually as "Party" or collectively as the "Parties".

RECITALS

WHEREAS, Contractor and Owner entered into that Master Engineering, Procurement and Construction Services Agreement which was amended and restated as of March 2, 2017 (the "A&R EPC");

WHEREAS, Contractor and Owner desire to add to the A&R EPC an Exhibit T – Equipment Warranty and Solar Production Guarantee.

NOW, THEREFORE, the A&R EPC is amended to include the following as an Exhibit T:

Exhibit T Equipment Warranty and Solar Production Guarantee

Contractor's Warranties

Commencing on the date of Substantial Completion or the date of Completion and Final Acceptance, the applicable date selected at Customer election, and continuing for a period of six (6) years from such date (the "Contractor's Warranty Period"). Contractor warrants that the Work will be free from defects in materials and workmanship, that the system will function as designed and that the System shall conform to all other requirements of this Agreement ("Contractor's Warranty").

Except as provided herein, if any component of the System becomes inoperable during the Contractor's Warranty Period as a result of defects in material or workmanship of components, then Contractor will have the relevant components repaired or replaced as provided herein. The components of the System covered by Contractor's Warranty include all materials incorporated into the System or included in the Work, with the exception of any consumable items (i.e. fuses, batteries, lubricants and filters).

Contractor's Warranty includes all of Contractor's time and travel charges incurred to repair or replace any defective component covered by Contractor or by a Manufacturer's or Subcontractor's warranty, including coordinating the defective product's replacement with the applicable Manufacturer or Subcontractor, and includes correction of any defective workmanship by Contractor, Subcontractors, or Manufacturers. The Contractor's Warranty also includes an annual test of the SCADA integration hardware to confirm that data is accurate for the previous 12 months. The test will be completed during the final complete week of the final complete month during each year during the Contractor's Warranty Period. If the hardware is faulty in anyway the data from the previous 12 months will be adjusted accordingly.

Manufacturers' and Subcontractors' Warranties

Subcontractors from which Contractor procures machinery, equipment, materials, or services, their warranties and guarantees with respect to such machinery, equipment, materials or services, which shall be made available to Customer to the full extent of the terms thereof.

Item of Work

Term

1. Solar Performance Guarantee

6 yrs

Contractor guarantees that during the period of the O&M Agreement, the net output from the Project in the first six years of operation (from the Placed in Service Date to each of the first six anniversaries of the Placed in Service Date, "Year One" and "Year Two" and so on respectively) shall meet or exceed the Expected Performance Ratio for such year, when tested in accordance with the test procedures set forth in Exhibit C (System Testing Protocols). As set forth in Exhibit C, at the first and second anniversary of the Placed in Service Date, Contractor shall calculate (i) the actual annual output of the Project the "Annual Output") and (2) the theoretical annual output as determined by PVsyst for the year (the "PVsyst Output"); it being understood and agreed that the PVsyst Output shall be calculated in accordance with Exhibit C. The "Measured Performance Ratio" is referred to herein as the performance ratio, expressed as the percentage, that the Annual Output for the period bears to the PVsyst Output for that period.

The "Expected Performance Ratio" for each of Years:

Year	Performance Ratio Forecast	Performance Ratio Guarantee
Year 1	85.0%	76.5%
Year 2	84.6%	76.1%
Year 3	84.2%	75.8%
Year 4	83.7%	75.4%
Year 5	83.3%	75.0%
Year 6	85.0%	76.5%

1.2 Production Deficit: At the end of the applicable year's 12-month period, if the System fails to produce the Annual Production Guarantee, the Customer shall be compensated in the amount of:

$$[\text{delta between Actual kWh Produced and Annual Production Guarantee}] \times (\text{multiplied by})$$

$$[\text{Applicable PPA year's \$ per kWh Compensation Rate}]$$

- | | |
|-----------------------------|--|
| 2. Electrical panels | refer to Customer/manufacture's warranty |
| 3. Switches and Disconnects | refer to Customer/manufacture's warranty |
| 4. Circuit Breakers | refer to Customer/manufacture's warranty |
| 5. Photovoltaic Panels | refer to Customer/manufacture's warranty |
| 6. Mounts and Racks | refer to Customer/manufacture's warranty |
| 7. Inverters | refer to Customer/manufacture's warranty |

Equipment and material warranties related to panels and inverters will be subject to the manufacturer's standard warranties.

Warranty Exclusions and Limitations

Contractor's Warranty does not cover damage, malfunctions, or service failures caused by:

failure to follow Contractor's reasonable operation or maintenance instructions included by Contractor in the Documents provided as a part of the Work and directly relevant to the cause of the failure, malfunction, or degraded performance;


- a. repair, modification, or movement of System or components thereof by a third party other than a service technician approved by Contractor;
- b. abuse, misuse, or negligent acts;
- c. damage or deteriorated performance of the System caused by electrical surges, lightning, fire, flood, extreme weather, pest damage, accidental breakage, actions of third parties, and other events or accidents outside of the control of Contractor;
- d. damage, malfunctions, or failures occurring after the expiration of the warranties included in the Work;
- e. any System failure not caused by a System defect (e.g., such as making roof repairs not performed pursuant to the Roof Warranty); or
- f. Theft of the System.

[Signature Page Follows]

IN WITNESS HEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives as of the Effective Date.

CONTRACTOR:

BRIGHT POWER, INC.

By: 
Name: Kevin L. Berryhill
Title: C.O.O.

OWNER:

BLUE SKY UTILITY – SUB 1, LLC

By: _____
Name: _____
Title: _____

IN WITNESS HEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives as of the Effective Date.

CONTRACTOR:

BRIGHT POWER, INC.

By: _____
Name: _____
Title: _____

OWNER:

BLUE SKY UTILITY 2017 III, LLC

A handwritten signature in dark ink, appearing to read "Ran Bujanover", is written over a horizontal line.

By: _____
By: Blue Sky Utility
Name: Ran Bujanover
Title: President