

ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT

This Engineering, Procurement and Construction Agreement (the "Agreement") is entered into effective as of last date referenced on the signature page below (the "Effective Date") by and between _____, a _____ corporation having its corporate headquarters at _____ ("Contractor") and _____, a _____ corporation having its principal office at _____ ("Owner") with reference to facts set forth in the Recitals below. Each of Contractor and Owner shall be referred to herein as Party or collectively as the Parties.

Recitals

A. Owner has entered into certain contracts for the turnkey delivery of electricity from a Solar Energy System (the "System") to _____ (the "User") at the System host location ("Site"). The Site and the System specifications (the "Specifications") are further described in the *System Description and Specification Schedule* attached hereto as *Schedule 1*.

B. Owner wishes to contract with Contractor for the turnkey delivery of the System at the Site. More specifically, Owner wishes Contractor to provide all materials, engineering, superintendence, and labor for the design, supply, construction, permitting and commissioning of the System (the "Work"). The Work is more particularly described in the *Work Description and Specification Schedule* attached hereto as *Schedule 2*.

C. In addition, Owner wishes Contractor to provide certain warranties relating to the System (the "System Warranties") as more particularly described in the *System Warranty Schedule* attached hereto as *Schedule 3*.

D. Contractor wishes to perform the Work and provide the System Warranties upon the terms and conditions of this Agreement and the Schedules and Exhibits attached hereto and thereto (collectively, the "Contract Documents") for the Contract Price set forth herein.

Agreement

In consideration of the foregoing recitals, the mutual agreements, representations, warranties and covenants set forth in this Agreement and the Schedules and Exhibits hereto, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Contractor agree as follows:

1. General Obligations.

1.1 Contractor shall perform the Work, and shall deliver the turnkey System at the Site in a timely manner within the time frames provided in the *Project Schedule* attached hereto as *Schedule 4*, as may be adjusted pursuant to the terms and conditions of the Agreement. Upon delivery of the System in accordance with the terms of this Agreement, which shall occur at System interconnection to the electrical grid, approved by the local utility, and all punch-list items identified by Owner have been completed, and the System is ready for production, ("Final Delivery Date"), Contractor shall provide the System Warranties. Time is of the essence for Contractor's performance.

1.2 Owner shall pay the contract price in the amount and at the time as provided in the *Contract Price Schedule* attached hereto as *Schedule 5* and shall provide certain installation assistance to Contractor as further provided in the *Owner Installation Assistance Services Schedule* attached hereto as *Schedule 6*. Owner and Contractor each acknowledge that User shall have no obligation to pay any amounts whatsoever under the Contract Documents.

1.3 Change Orders.

a) A change order ("Change Order") is a written instrument issued after execution of this Agreement signed by Owner and Contractor, stating their agreement upon all of the following:

- (i) the scope of the change in the Work;
- (ii) the amount of the adjustment to the Contract Price; and

Epc Engineering Procurement And Construction Agreement

RD Boyd



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