

KWH GUARANTEE TERMS AND CONDITIONS: SERVICE AND PERFORMANCE GUARANTEE AGREEMENT

[Guarantee ID]

BETWEEN

1. The foundation established under Dutch law, Stichting kWh Guarantee Fund, having its registered office at the address Schansoord 60, 5469 SH Erp, the Netherlands, registered in the Dutch trade register with number 69652465, hereinafter referred to as '**SPV**'; and
2. [Name], [Address], [Zipcode], [Place], [Country] hereinafter referred to as '**Beneficiary**';

SPV and Beneficiary are hereinafter individually referred to as '**Party**' and jointly as '**the Parties**'.

RECITALS:

1. Beneficiary declares that it has purchased the delivery and installation of an Autarco solar power system from an authorized Autarco Dealer ('**Dealer**');
2. Beneficiary declares that the solar power system has been correctly registered on the Autarco system registration website within ninety days as of installation;
3. The Dealer of the Autarco solar power system has formally applied for a service and performance guarantee according to the applicable terms and conditions;
4. Beneficiary and SPV have agreed that SPV will render services to the Beneficiary to maximize performance of the Autarco solar power system under the terms and conditions stated in this service and performance guarantee agreement ('**Agreement**').

IT IS HEREBY AGREED AS FOLLOWS:

1. CONDITION PRECEDENT

- 1.1. Parties enter into this Agreement under the conditions precedent that SPV receives the confirmation from Autarco that:
 - i. All materials used for the solar power system are Autarco branded or approved for use by Autarco in writing;

- ii. All materials used for the solar power system are installed conforming to the Autarco installation manuals and are functioning correctly and producing the expected yield;
 - iii. The solar power system is registered correctly by the Dealer and monitoring data is being received by Autarco;
 - iv. The modules of the solar power system are shaded according to the registered horizon or shade profile;
 - v. The Beneficiary or Dealer will pay any outstanding amounts to Autarco.
- 1.2. In the event that one or more conditions precedent are not fulfilled within one hundred and twenty days as of the signing of this Agreement, SPV may –to its sole discretion- (i) set additional requirements, (ii) set a lower performance guarantee or (iii) renounce from their right and obligations under this Agreement.
- 1.3. The Beneficiary has accepted that they have understood their obligations and that the system details provided are correct within their knowledge.

2. SERVICES & OBLIGATIONS

- 2.1. SPV will during the Project Event Period as defined in article 3.4 of this Agreement monitor the (output of) the solar power system via the monitoring system of SPV and –where necessary to the sole discretion of SPV- via physical inspection.
- 2.2. SPV may during the term of this Agreement modify and/or adjust the solar power system to improve the performance of the solar power system. Beneficiary will enable SPV to make the aforementioned modifications and adjustments.
- 2.3. Beneficiary is obliged to observe the instructions of SPV which will be provided to enable an optimal arrangement and performance of the solar power system. Beneficiary shall not make any change to the solar power system, unless instructed by the SPV.
- 2.4. Beneficiary is obliged to ensure an internet connection and monitoring connection at all times for the solar power system in order to ensure that the solar power system can successfully communicate output data to the monitoring system of the SPV.
- 2.5. Beneficiary is obliged to maintain their correct contact details in the monitoring platform.
- 2.6. Beneficiary is obliged to arrange necessary maintenance on the solar power system and keep the solar modules clean in line with the user manual and the instructions from SPV.

- 2.7. Beneficiary is obliged to maintain the existing shading conditions equal to the situation at the time of registration and keep the solar modules free of additional shading.
- 2.8. Beneficiary is obliged to inform SPV of anything that may negatively impact performance as soon as they are aware.
- 2.9. Beneficiary is obliged to either;
 - i. Purchase product warranty extensions to match the term of the Agreement; or
 - ii. if product defects occur outside of product warranty period, replace products with original Autarco products.

3. MINIMUM MAINTENANCE REQUIREMENTS FOR COMMERCIAL PROJECT YIELDS

- 3.1. A solar power system is eligible for increased commercial project yields if
 - i. the rated output of the solar power system exceeds 50kWp; and
 - ii. a professional maintenance contract is in place for the full duration of this Agreement which includes at least the services listed in 3.2.
- 3.2. Minimum maintenance contract requirements:
 - i. Annual physical inspection on the integrity of the PV array frame for corrosion, defects and effective grounding;
 - ii. Annual physical inspection to ensure the good condition of solar modules and inverters, including product labels;
 - iii. Annual physical inspection on the integrity of wiring and its protection, electrical connections, corrosion and DC faults;
 - iv. Annual verification of the open-circuit voltage and short-circuit current values;
 - v. At least one annual cleaning of all modules and additional cleaning if there is evidence of soiling causing reasonable underperformance;
 - vi. Corrective maintenance services in response to generated alerts (e.g. inverter error, no communication, string failure or underperformance).
 - vii. Pest control (e.g. preventive action against any bird population, insects, rodents);
 - viii. Preparation of an annual maintenance report on health status of the system and including a log of all corrective actions taken;

- ix. The mandatory completion of one infra-red thermal scan in the first Project Event Period, and completion of one infra-red thermal scan in subsequent Project Event Periods if there is evidence of module defects.

4. PERFORMANCE GUARANTEE

4.1. SPV guarantees that solar power system [System number] will produce the following guaranteed yield:

- i. [Guarantee ID.1] [Number] kilowatt hours during the **'Project Event Period'** of five years starting [Start date] and ending [End date]
- ii. [Guarantee ID.2] [Number] kilowatt hours during the **'Project Event Period'** of five years starting [Start date] and ending [End date]
- iii. [Guarantee ID.3] [Number] kilowatt hours during the **'Project Event Period'** of five years starting [Start date] and ending [End date]
- iv. At the end of each Project Event Period' if final yield is less than the guaranteed yield, compensation will be paid at [Compensation rate] per kilowatt hour (**'Compensation'**)

4.2. SPV has calculated the specific guaranteed yield for the Project Event Period for the solar power system of Beneficiary based upon:

- i. The latest meteorological data from NASA, EURAMET and other sources;
- ii. The pitch and orientation of the system's modules;
- iii. The shading of the system's modules based on the shade profile or horizon;
- iv. The exact location of the installation;
- v. The exact system configuration in terms of module & inverter quantity and type, string sizing, etc;
- vi. The real life output data collected from existing monitored Autarco solar power systems; and
- vii. System size in rated module Wp power.

4.3. Within thirty days after the lapse of a Project Event Period Beneficiary shall submit provide SPV with a claim demand note including:

- i. Claimed compensation amount
- ii. Bank details for compensation

- 4.4. In the event that the actual final yield is higher than or equal to the guaranteed yield, the Compensation will be equal to zero.
- 4.5. SPV has entered into an insurance policy (**'Insurer'**) which covers approximately 100% of the Compensation for the Beneficiary (**'Insured Amount'**). Any Deductible on the insurance will be paid by Autarco to SPV as a financial provision (**'Financial Provision'**) as soon as (i) Parties have entered into this Agreement and (ii) Autarco has received all related payments from Dealer.
- 4.6. SPV will not be obliged to pay the Compensation in the event that (i) losses are caused by one of the excluded perils and/or losses stated in appendix 1 (**'Excluded Perils and Losses'**) and/ or (ii) the Beneficiary has committed a breach (*"tekortkoming"*) of any of the terms or conditions of this Agreement or any other agreement made pursuant to the provisions hereof and such breach is not cured (*"gezuiverd"*) or cannot be cured due to its nature (*"nakoming blijvend onmogelijk is"*) within fourteen (14) days after written notice (*"ingebrekestelling"*) specifying the default.
- 4.7. In the event that Beneficiary is entitled to Compensation, SPV will pay the Compensation to Beneficiary within five days after the receipt of the Insured Amount by SPV from the Insurer.
- 4.8. The Beneficiary can claim by reason of this Agreement, by breach of contract or tort no other claims for indemnity or compensation than the claim for Compensation. The total liability of Autarco, the Dealer, the Insurer and SPV towards Beneficiary is together limited to the amount of the Compensation.

5. TERM AND TERMINATION

- 5.1. This Agreement shall remain in full force and effect for a period of [5, 10 or 15] years after the date of entrance [Registration date], and shall therefore terminate automatically (*"beëindiging van rechtswege"*) on [Date] without any termination notice being required.
- 5.2. The Parties shall be entitled to terminate the Agreement with immediate effect (*"opzeggen per direct zonder inachtneming van een opzegtermijn"*) by giving written notice by registered mail if:
 - i. the other Party commits a breach (*"tekortkoming"*) of any of the terms or conditions of this Agreement or any other agreement made pursuant to the provisions hereof and such breach is not cured (*"gezuiverd"*) or cannot be cured due to its nature (*"nakoming blijvend onmogelijk is"*) within fourteen (14) days after written notice (*"ingebrekestelling"*) specifying the default;
 - ii. the Beneficiary becomes bankrupt (*"failliet wordt verklaard"*), requests suspension of payment (*"surseance van betaling wordt aangevraagd"*), is declared commercially incompetent by order of the court (*"handelingsonbekwaam"*), enters into liquidation (*"liquidatie"*),

compounds with its creditors ("*schuldeisers akkoord*") or is unable to pay its debts as they mature ("*betalingsonmacht*") or is involved in any insolvency ("*insolventieprocedure*") or reorganisation proceedings ("*herstructureringsprocedure*") supervised by a court.

5.3. No claims for indemnity or compensation can be lodged by reason of the termination of this Agreement, save where these claims are based on breach of contract or tort.

6. GOVERNING LAW AND COMPETENT COURT

6.1. This Agreement and all agreements which are entered into by the Parties following on this Agreement are governed by Dutch law, whereby the applicability of the Vienna Sales Convention (CISG) is not applicable.

6.2. All disputes arising in connection with this Agreement, including disputes regarding its existence and validity, shall be finally settled by the court Oost-Brabant.

THUS AGREED and signed in the places and on the dates mentioned below.

[SPV]

By:

Place:

Date:

[BENEFICIARY]

By:

Place:

Date:

Appendix 1: Excluded Perils and Losses'

Unless otherwise stated in any Section or section of this Agreement, the SPV shall not indemnify the Beneficiary or otherwise be responsible or liable in respect of any loss or damage directly or indirectly resulting from or aggravated by or in connection with:

- a. war, invasion or warlike operations (whether war be declared or not), hostile acts of sovereign or local government entities, civil war, rebellion, revolution, insurrection, martial law, usurpation of power, or civil commotion assuming the proportion of or amounting to an uprising;
- b. the acts of any person or persons acting on behalf of or in connection with any organization with activities directed towards the overthrowing or influencing of any government de jure or de facto by force or violence;
- c. any act of Terrorism including loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of Terrorism;
- d. ionizing radiation or radioactive contamination from any nuclear fuel or nuclear waste or from the combustion of nuclear fuel;
- e. the radioactive, toxic, explosive or otherwise hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
- f. any weapon or device employing atomic or nuclear fission and/or fusion or any other similar reaction or radioactive force or matter;
- g. any pollution and/or contamination, directly or indirectly, arising from any cause whatsoever and any loss, cost or expense due to any request, demand or order that the Insured or others test for, monitor, clean-up, remove, contain, treat, detoxify or neutralize or in any way respond to, or assess the effects of, "pollutants"; or any claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing or in any way responding to, or assessing the effects of, "pollutants";
- h. any willful act or gross negligence on the part of the Beneficiary, its employees, agents or other representatives;
- i. any consequential loss or damage of any kind including any business interruption, loss of profits or loss minimizing costs or expenditure and any damage or injury to any property or person caused directly or indirectly by or attributable to the performance or failure by the Project Components other than as expressly set forth in this Policy;
- j. any fault or defect of the Project Component existing at the commencement of the Policy Period that is known by the Beneficiary or any representative of the Beneficiary;

- k. any physical loss or material damage caused by external events, including, but not limited to Material Misuse, fire, lightning, explosion, windstorm, hail, flood, earth movement, earthquake, mine subsidence, riot, civil commotion, vandalism and malicious mischief;
- l. explosion or large impact caused by meteorite or other similar object hitting earth surface;
- m. reduced insolation (Reference Yield) due to volcanic eruption and resulting ash cloud;
- n. curtailment or power limiting by any external device, actions of grid operators or grid irregularities, including but not limited to grid interference, voltage or frequencies;
- o. any new external shading conditions not defined in the system registration;
- p. chemical or biological emission, release, discharge, dispersal or escape or chemical or biological exposure of any kind;
- q. electronic means including but not limited to computer hacking or the introduction of any form of computer virus or corrupting or unauthorized instructions or code or the use of any electromagnetic weapon;
- r. works of any kind also performed on installation by others who were not commissioned by SPV unless otherwise agreed with SPV.

In the event any portion of the above exclusions are determined to be invalid or unenforceable in whole or in part, the remainder of such exclusions shall remain in full force and effect.