

Exhibit E-1
BESS Performance Guarantees & Liquidated Damages

This Exhibit forms an integral part of the Agreement for the Pattern Barceloneta Solar LLC (“Project”) between [Owner Name] (the “Owner”) and [Contractor Name] (the “Contractor”). The parties intend that terms appearing in initial capital letters, but not otherwise defined herein, have the meaning defined elsewhere in the Agreement.

Delay Liquidated Damages Rates:

Guaranteed Milestone¹	Milestone Completion Date	Daily Delay LD Rate
Guaranteed Delivery Date	[_ ENTER _]	a) \$500/MW per day multiplied by the Project’s Guaranteed Power capacity for each day equipment delivery is delayed beyond the Guaranteed Delivery Date.
Guaranteed Substantial Completion Date	[_ ENTER _]	a) \$35,750 per day until the date when Substantial Completion has been achieved.

Testing Frequency and Costs: The Performance Test set forth in Exhibit F-5 - Substantial Completion Test Plan will be run by the Contractor during Substantial Completion testing and the Performance Test in Exhibit F-6 – Annual Performance Test Plan will be performed once per Measurement Period by the O&M provider. The Owner has the right to request additional testing. No Maintenance shall be performed on the BESS between the Owner’s request and the performance of an additional Performance Test, provided that such period shall not exceed 10 Days. Owner shall be responsible for all costs incurred by conducting any additional Performance Tests unless a Performance Test proves the BESS is underperforming, in which case the Contractor will be responsible for all costs, until Contractor proves the BESS meets the Performance Guarantees.

Test Records: Contractor shall record the results of each Performance Test, provide all raw data, records and results associated with each Performance Test, and shall submit a testing report detailing results and findings of the test to Owner within eight (8) Business Days following completion of such Test. During the performance of each Test, the BESS shall be functioning in a manner to permit Owner to remotely monitor, observe and independently verify the performance of the BESS through the BESS’s remote monitoring and control systems.

Performance Guarantees:

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- A. Guaranteed Annual Availability = [98.0]%
 - B. Guaranteed Power = 31.5 MW at the POI

¹ Any delay that is due in part to an Owner-Caused Delay and/or the Owner’s contractors shall not be a delay caused by the Contractor, and the Contractor shall be afforded day-for-day schedule relief.

- C. Guaranteed Energy = 10.5 MWh
- D. Guaranteed Round-Trip Efficiency means the Guaranteed Round-Trip Efficiency Table found below

1.0 Availability:

- i. Annual Availability: The “**Annual Availability**” of the BESS for a Measurement Period is calculated by dividing the sum of the minimum of the Available Energy Measured (**AEM**) and the Available Power Measured (**APM**) of every hour of the Measurement Period by the total number of hours in the year. All Excused Event Hours are removed from the calculation. This calculation is illustrated in the following formula:

$$\text{Annual Availability} = \frac{1}{HM - HE} * \sum_{h=1}^{HM - HE} \text{MIN}[(AEM(h)), (APM(h))]$$

- ii. Where the following terms have the following meanings:

Measurement Period: (i) for the first Measurement Period, the period beginning on the COD and ending on the last day of the first Contract Year thereof and (ii) for each subsequent Measurement Period, each Contract Year thereafter..

H_M (h) = The number of hours in the Contract Year.

H_E (h) = The number of Excused Event Hours.

AEM (h) = For any Hour (h), AEM is calculated in accordance with the following formula.

$$AEM = \text{MIN} \left[1, \frac{\text{Available Energy (h)}}{\text{Measured Energy (h)}} \right]$$

APM (h) = For any Hour (h), APM is calculated in accordance with the following formula.

$$APM = \text{MIN} \left[1, \frac{\text{Available Power (h)}}{\text{Measured Power (h)}} \right]$$

“**Excused Event Hours**” means, with respect to a Measurement Period, the sum of all Hours during which the BESS is operating below one hundred percent (100%) of installed capacity as result of Planned Outages or Force Majeure Events.

Hour = The consecutive sixty-minute period commencing on the hour, every hour, using local time at the Facility.

Available Power (h) = For any Hour (h), the lesser of (i) the average percentage of available inverters multiplied by Measured Power, or (ii) the Guaranteed Power.

Available Energy (h) = For any Hour (h), the lesser of (i) the average percentage of available racks multiplied by Measured Energy, or (ii) the applicable Guaranteed.

Measured Power shall be assessed annually and is the lesser, in absolute value, of the Discharge Capacity Test or Charge Capacity Test within the O&M provider's annual performance testing.

Measured Energy shall be assessed at least annually and is performed according to the "Round-Trip Efficiency and Energy Test within the O&M provider's annual performance testing.

Monthly Availability Liquidated Damages: If the Monthly Availability is less than the corresponding Guaranteed Monthly Availability the following liquidated damages will apply:

"Monthly Infraction Days" shall be calculated on a monthly basis, if Monthly Availability is less than Guaranteed Monthly Availability, using the following formula: $[(H_M - H_E) / 24] * [\text{Guaranteed Monthly Availability} - \text{Monthly Availability}]$

"Monthly Availability Liquidated Damages" shall be calculated on a monthly basis using the following formula: $[\text{Monthly Infraction Days}] * [(\$170/\text{MWh}) * (\text{Guaranteed Energy})]$.

2.0 Power:

Power shall be assessed at Substantial Completion using the methodology set forth in Exhibit F-5 - Substantial Completion Test Plan and annually using the methodology set forth in Exhibit F-6 – Annual Performance Test Plan and compared to the Guaranteed Power.

- A. Guaranteed Power Liquidated Damages: If the power demonstrated during Substantial Completion testing is less than the corresponding Guaranteed Power but greater than or equal to 95% of Guaranteed Power, the following liquidated damages will apply: [\$200 per kW] multiplied by the difference in kW between the Guaranteed Power value and the Measured Power value. Once the applicable liquidated damages are paid, the Project's Guaranteed Power requirement will be satisfied for purposes of Substantial Completion testing.
- B. Guaranteed Power Liquidated Damages: If the power demonstrated during annual performance testing is less than the corresponding Guaranteed Power, the following liquidated damages will apply: [\$150/MW per day] multiplied by the difference between the Guaranteed Power value and the Measured Power value.

3.0 Energy:

Energy shall be assessed at Substantial Completion using the methodology set forth in Exhibit F-5 - Substantial Completion Test Plan and annually using the methodology set forth in Exhibit F-6 – Annual Performance Test Plan and compared to the Guaranteed Energy.

- A. Guaranteed Energy Capacity:

Guaranteed Energy Table

Year after Commissioning Completion (start of year)	Guaranteed Energy (MWh)
0	10.5
1	10.5
2	10.5
3	10.5
4	10.5
5	10.5
6	10.5
7	10.5
8	10.5
9	10.5
10	10.5
11	10.5
12	10.5
13	10.5
14	10.5
15	10.5
16	10.5
17	10.5
18	10.5
19	10.5
20	10.5

- A. Guaranteed Energy Liquidated Damages: If the energy demonstrated during annual performance testing is less than the corresponding Guaranteed Energy, the following liquidated damages will apply: [\$150/MWh per day] multiplied by the difference between the Guaranteed Energy value and the Measured Energy value.

4.0 Round-Trip Efficiency:

- A. Round-Trip Efficiency:

$$\text{Measured RTE} = \frac{\text{Measured Energy}}{\text{Energy Charged}}$$

- B. Where the following terms have the following meanings:

Measured Energy (kWh) = Has the meaning in Exhibit F-5 - Substantial Completion Test Plan.

Energy Charged (kWh) = The amount of Energy charged to the BESS during the Energy Capacity and RTE Test, measured at the reference meter in Exhibit F-5 - Substantial Completion Test Plan.

- C. Energy Capacity and RTE Test: In order to determine the Measured RTE of the BESS, the test shall be assessed at Substantial Completion using the methodology set forth in Exhibit F-5 - Substantial Completion Test Plan and annually using the methodology set forth in Exhibit F-6 – Annual Performance Test Plan, as applicable.

- D. **“Guaranteed Round-Trip Efficiency”** means:

Guaranteed Round-Trip Efficiency Table

Year after COD	Guaranteed Round-Trip Efficiency (%)
0	TBD%
1	TBD%
2	TBD%
3	TBD%
4	TBD%
5	TBD%
6	TBD%
7	TBD%
8	TBD%
9	TBD%
10	TBD%
11	TBD%
12	TBD%
13	TBD%
14	TBD%
15	TBD%
16	TBD%
17	TBD%
18	TBD%
19	TBD%
20	TBD%

- A. Guaranteed RTE Liquidated Damages: If the Measured RTE demonstrated during annual performance testing is less than the corresponding Guaranteed RTE, the following liquidated damages will apply: [\$150/MWh per day] multiplied by the product of all Charging Energy accumulated during the period where the Measured RTE is underperforming and [Guaranteed RTE - Measured RTE].