

AGREEMENT FOR THE INTERCONNECTION
OF CUSTOMER'S GENERATION
FACILITY TO THE APS DISTRIBUTION SYSTEM
BETWEEN
ARIZONA PUBLIC SERVICE COMPANY
AND
CUSTOMER'S NAME

APS AGREEMENT NO. CONTRACT NUMBER

Sample

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1. PARTIES

This Agreement for the Interconnection of Customer's Generation Facility to the APS Distribution System (hereinafter called "Agreement") is entered into as of the _____ day of _____, _____, (the "Effective Date") by and between ARIZONA PUBLIC SERVICE COMPANY, an Arizona Corporation (hereinafter called "APS") and CUSTOMER'S NAME, (hereinafter called "Customer"). APS and Customer are hereinafter sometimes referred to individually as "Party" and collectively as "Parties".

2. RECITALS

This agreement is entered into in respect to the following facts and considerations, all of which are considered to be an essential part of the terms and conditions, which follow:

2.1 Customer intends to invest in, construct, own, maintain and operate a Generating Facility ("GF"), which will be operated in electrical parallel with APS' electric distribution system.

2.2 The GF shall be permanently located at **Generating Facility** (the "Property"), and shall be ready to operate in electrical parallel on or about _____.

2.3 The specifications of the GF are described as follows:

Type: **Manufacturer and Model No.**

Fuel or Energy Source: **Photovoltaic**

Unit Nameplate Output Rating: **Nameplate kW**

Total Nameplate Output of all Units: **Total system kW Output**

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2.4 APS and Customer intend to interconnect their respective facilities and systems in order that Customer may operate it's GF in electrical parallel with APS' system. Such interconnection and parallel operation shall be undertaken in accordance with the terms and conditions of this Agreement. Customer **does/does not** intend to sell or export power back to APS.

2.5 The electric service supplied under this Agreement shall be in the form of (single or three) phase alternating current at approximately 60 Hertz and approximately (example: 120/240) volts.

3. AGREEMENT

Now therefore, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

4. DEFINITIONS

The following terms, when used in this Agreement, shall have the meanings specified:

- 4.1 Agreement: This Agreement titled "Agreement for the Interconnection of Customer's Generation Facility to the APS Distribution System between Arizona Public Service Company and **Customer's name**." together with all Schedules and other exhibits attached hereto and incorporated herein by specific reference.
- 4.2 Point(s) of Interconnection: The physical location(s) where APS' service conductors are connected to Customer's service conductors to allow parallel operation of Customer's GF with APS' electric system.
- 4.3 Generating Facility (GF): All or part of Customer's electrical generator(s) or inverter(s) together with all protective, safety, and associated equipment and improvements necessary to produce electric power at Customer's facility, including, but not limited to the Disconnect Switch, as defined herein. A GF shall be understood to include any Qualifying Facility (QF).
- 4.4 Qualifying Facility (QF): Any Cogeneration or Small Power Production Facility that meets the criteria for size, fuel use, efficiency, and ownership as promulgated in 18 CFR, Chapter I, Part 292, Subpart B of the Federal Energy Regulatory Commission's Regulations.
- 4.5 Cogeneration Facility: Any facility that sequentially produces electricity, steam or forms of useful energy (e.g., heat) from the same fuel source and which are used for industrial, commercial, heating, or cooling purposes.
- 4.6 Small Power Production Facility: A facility that uses primarily biomass, waste, or renewable resources, including wind, solar, and water to produce electric power.
- 4.7 Minimum Protective Devices, Relays, and Interconnection Requirements:
The minimum required protective relaying and/or safety devices or requirements specified in the APS Interconnection Requirements manual, as may be revised from time to time, for the purpose of protecting (only) APS facilities from damage or disruptions caused by a fault, malfunction or improper operation of the Customer's GF. Minimum Protective Relaying and Interconnection Requirements shall not be construed to include additional relaying, protective or safety devices as may be required by industry and government codes and standards, equipment manufacturer requirements and prudent engineering design and practice to fully protect Customer's GF or facilities; such shall be the sole responsibility of the Customer.

5. EFFECTIVE DATE AND TERM

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This Agreement shall become effective on the Effective Date specified in Section 1 and shall remain in effect thereafter unless and until (a) it is terminated by mutual agreement of the Parties, (b) it is replaced by another interconnection agreement, (c) it is terminated by either Party pursuant to a Default of this Agreement as specified in Section 17 hereof, (d) upon termination of electric service to the Customer. Upon termination of this Agreement, Customer shall be responsible for ensuring that the electrical conductors connecting the GF to the utility system are immediately lifted and permanently removed, so as to preclude any possibility of interconnected operation in the future. APS reserves the right to inspect the Customer's facility to verify that the GF is permanently disconnected.

6. INTERCONNECTION FACILITIES AND POINT(S) OF INTERCONNECTION

Customer is responsible for and shall pay for all facilities required to be installed solely to interconnect Customer's GF to the APS system including, but not limited to, connection, transformation, switching, protective relaying, metering and safety equipment, including a visibly-open Disconnect Switch. All such facilities are to be installed by Customer at Customer's sole expense. During the term of this Agreement Customer shall maintain the GF, connection facilities, and all other materials required hereunder in a safe and in good operating condition.

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7. NOTICES

All written notices pursuant to this Agreement shall be delivered personally or forwarded by registered or certified mail including express overnight courier service, postage prepaid, return receipt requested to APS or Customer, as the case may be, at the address of that Party set forth below as follows:

To APS:

APS Solar Partners Incentive Program
P.O. Box 53933, MS 3161
Phoenix, AZ 85072-3933

Telephone: 602-328-1924

To Customer:

Customer's Name
Customer's mailing address
City, State Zip

Telephone: Customer's phone number

Either Party may change its address for notice by written notice given to the other Party in the manner hereinabove provided. Any such notice shall be deemed to have been duly given and served on the date personally delivered or three (3) business days after the date deposited in the United States mail in accordance with this section.

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8. ENTIRE AGREEMENT

- 8.1 This Agreement and the documents attached hereto constitute the entire Agreement between the Parties relating to the subject matter hereof, there being no other agreements or understandings, written or oral, other than those contained in this Agreement. This Agreement does not modify, change or impact any other agreement between the parties relating to the supply of electric service, or the sale of, or purchase of, electric power.
- 8.2 The Parties may amend this Agreement but such amendment may only be effective and enforceable if it is set forth in a written instrument signed by both Parties.

9. CUSTOMER'S OBLIGATIONS

- 9.1 Customer agrees not to commence interconnected operation of its GF with APS' system, until the installation has been inspected by an authorized APS representative and final written notification is received from APS as to compliance with minimum APS requirements. Customer shall give at least 5 business days notice to APS when initial startup is to begin. APS shall have the right to have a representative present during initial energizing and testing of Customer's system.
- 9.2 Customer shall own and be fully responsible for the costs of designing, installing, operating and maintaining:
- 9.2.1 The GF in accordance with the requirements of all applicable construction and safety codes, laws and governmental agencies having jurisdiction.
- 9.2.2 Control and protective devices, in addition to the APS Interconnection Requirements specified minimum protective relays and devices, to protect its facilities from abnormal operating conditions such as, but not limited to, electrical overloading, abnormal voltages, and fault currents. Such protective devices shall promptly disconnect the GF from APS' system in the event of a power outage on APS system.
- 9.2.3 A visible gang operated load break disconnect switch ("Disconnect Switch"), capable of being locked in a visibly "open" position by a standard APS padlock that will completely isolate the GF from the APS system. Such Disconnect Switch shall be installed in a place so as to provide easy and unrestricted accessibility to APS personnel on a 24-hour basis. APS shall have the right to lock open the Disconnect Switch without notice to Customer when interconnected operation of the GF with APS system could adversely affect APS' system or endanger life or property, or upon termination of this Agreement.
- 9.2.4 Interconnection facilities on Customer's premises as may be required to deliver power from Customer's GF to APS system at the Point of Interconnection.

- 9.2.5 In cases where the applicable rate schedule or other APS agreement requires billing meter(s) to be installed on the output of the facility generator(s), Customer will provide a dedicated phone line to each such generator meter and also to the facility service entrance section main billing meter and/or sub meters if necessary. Each dedicated phone line is to be landed on the APS-provided telephone interface module, normally located within two feet of the meter.
- 9.3 The electrical output of Customer's GF shall not contain harmonic content, which may cause disturbances on or damage to APS' electrical system, or other parties' systems, such as but not limited to computer, telephone, communication and other sensitive electronic or control systems.
- 9.4 Customer shall exercise reasonable care to assure that the electrical characteristics of its load and GF, such as deviation from sine wave form or unusual short interval fluctuations in power demand or production, shall not be such as to result in impairment of service to other customers or in interference with operation of computer, telephone, television or other communication systems or facilities. The current imbalance for a three phase system, as measured at the customer's service entrance section shall not be greater than ten percent (10%) at any time. The power factor of the Customer's facility shall not be less than ninety percent (90%) lagging, but shall not be leading, unless agreed to by APS.
- 9.5 Customer shall protect, operate and maintain the GF in accordance with those practices and methods, as they are amended or changed from time-to-time that are commonly used in prudent engineering and electric utility operations and shall operate and maintain the GF lawfully in a safe manner and non-hazardous condition.
- 9.6 Customer shall submit to APS, for APS review and written approval, written equipment specifications, and detailed plans of the interconnections facilities, control and protective devices and settings, and facilities as specified in the APS Interconnection Requirements manual, as may be revised from time to time, for the design, installation and operations of its GF prior to their actual installation.
- 9.7 Following APS written approval of Customer's proposed GF and associated facilities, neither Customer nor its successors or assigns shall remove, alter or otherwise modify or change the equipment specifications, including, without limitation, the plans, control and protective devices or settings, and in general the GF's system specifications configuration or any facilities appurtenant thereto. If Customer desires to make such changes or modifications, Customer shall resubmit to APS plans describing said changes or modifications for approval by APS. No such change or modification may be made without the prior written approval of APS.
- 9.8 If Customer utilizes the APS system to facilitate start-up of its GF, the voltage flicker level shall not exceed APS standards.

- 9.9 Customer shall obtain and maintain all required permits and inspections indicating that Customer's GF complies with local and other applicable construction and safety codes.

10. MUTUAL UNDERSTANDINGS

- 10.1 APS shall be allowed to install on Customer's premises any instrumentation equipment for research purposes. Such equipment shall be owned, furnished, installed and maintained by APS.
- 10.2 APS' approvals given pursuant to this Agreement or actions taken hereunder shall not be construed as any warranty or representation to Customer or any third party regarding the safety, durability, reliability, performance or fitness of Customer's generation and service facilities, its control or protective devices or the design, construction, installation or operation thereof.
- 10.3 APS (including its employees, agents and representatives) shall have the right to enter Customer's premises at all reasonable times to (a) inspect Customer's GF, protective devices, and to read or test instrumentation equipment that APS may install, provided that as reasonably possible, notice is given to Customer prior to entering its premises; (b) maintain or repair APS equipment; (c) disconnect the GF without notice if, in APS' opinion, a hazardous condition exists and such immediate action is necessary to protect persons, APS facilities or other customers' or third parties' property and facilities from damage or interference caused by Customer's GF, or improperly operating protective devices; (d) open the Disconnect Switch if an operating clearance is required by APS personnel.
- 10.4 APS will not install and maintain any lines or equipment on Customer's side of the Point of Interconnection except possibly its meter and some research equipment. For the mutual protection of Customer and APS, only authorized employees of APS are permitted to make and energize the service connection between the APS system and the Customer's service entrance conductors. Such employees carry credentials, which they will show to Customer upon request.
- 10.5 Notwithstanding any other provisions of this Agreement, APS shall have the right to unilaterally file with the Arizona Corporation Commission (ACC), pursuant to the ACC's rules and regulations, an application for a change in requirements, charges, classification, or service, any rule, regulation or agreement relating hereto.

11. ADDITIONAL TERMS AND CONDITIONS

- 11.1 The GF shall meet the specifications set forth in Section 2.3.
- 11.2 Customer warrants that it has installed or caused to be installed and will maintain the following minimum protective and safety equipment on the GF:
- 11.2.1 A visible open, load break disconnect switch (Disconnect Switch) installed in an approved location so as to provide easy and unrestricted

accessibility to APS personnel on a 24-hour basis, and capable of being locked in the visible “open” position by a standard APS company padlock.

11.2.2 A circuit breaker or contactor on the generator or inverter output.

11.2.3 Shutdown minimum protective devices as follows:

Undervoltage shutdown protection (unless otherwise stated by Bryan)

11.2.4 Such other equipment as shall mutually be agreed upon by the Customer and APS from time to time during the term of this Agreement and any extensions thereof.

11.3 In the event APS or its authorized agents lock open the Disconnect Switch, Customer shall not remove or tamper with such lock.

11.4 Customer shall, at a minimum, have the shutdown protective devices, specified in Sections 11.2.3 and 11.2.4 tested and calibrated at the time of installation by qualified personnel and shall also perform functional testing of these relays and associated generator or inverter breaker. Customer shall provide APS with a copy of calibration and functional test results. Customer shall also notify APS at least five (5) working days in advance that such tests are to be performed and allow APS personnel to witness such tests. Customer agrees not to commence interconnected operations of its GF until the installation has been inspected by an authorized APS representative and final written approval is received from APS to commence interconnected operation, which approval shall not be unreasonably withheld. Customer shall give APS at least five (5) working days prior notice of when initial startup is to begin. APS shall have the right to have a representative present during initial energizing and testing of Customer’s system.

11.5 Customer shall have all protective devices tested at time of installation and at intervals not to exceed four (4) years by qualified test personnel. Customer shall either (i) provide APS with a certified copy of the test results or (ii) notify APS as to when such tests are to be performed at least five (5) working days prior to such tests and allow APS personnel to witness the test.

11.6 Customer agrees to allow APS and its authorized agents access to the protective relaying and control facilities to conduct whatever periodic tests it may deem necessary, in addition to the requirement set forth in Section 11.5. APS will provide Customer with advance notice of such tests, and Customer’s representatives may be in attendance when such tests are performed.

12. SUCCESSORS AND ASSIGNS

Customer may not assign its rights nor delegate its duties under this Agreement, or any part of such rights or duties without the prior written consent of APS. Any such assignment or delegation made without such written consent shall be null and void. Consent for assignment shall not be withheld unreasonably. This Agreement shall be binding on and inure to the benefit of the respective successors and assigns of the Parties.

13. EFFECT OF SECTION HEADINGS

Section headings appearing in this Agreement are inserted for convenience only, and shall not be construed as interpretations of text.

14. INDEMNITY

Each Party hereby agrees to indemnify the other Party, its officers, agents, and employees for, from and against any and all loss, damages, expenses and liability for injury to or death of any person or injury to or loss of property, to the extent caused by the indemnifying Party's construction, ownership, operation, or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, at the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall also pay all costs and expenses that may be incurred by the other Party in enforcing this indemnity, including reasonable attorney's fees. This indemnification shall survive the termination or expiration of this Agreement.

15. GOVERNING LAW

This Agreement shall be governed by, construed, and enforceable in accordance with the laws of the State of Arizona applicable to contracts entered into and to be performed solely within such state, without reference to its principles governing conflicts of laws.

16. UNCONTROLLABLE FORCES

No Party shall be considered to be in default in the performance of any of its obligations under this Agreement (other than obligations of said Party to pay sums to be paid by it hereunder, and other costs and expenses) when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" shall be any cause beyond which, by exercise of due diligence such Party could not reasonably have been expected to avoid or control, and which by exercise of due diligence it shall be unable to overcome or control, including, but not restricted to, failure of or threat of failure of facilities, flood, earthquake, tornado, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, strikes, labor or material shortage, sabotage, restraint by court order or public authority, and action or non-action by or inability to obtain the necessary authorizations or approvals from any governmental agency or authority. Nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. Either Party rendered unable to fulfill any of its obligations under this Agreement by reason of an uncontrollable force shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

17. EVENTS OF DEFAULT; REMEDIES

A party shall be in default hereunder in the event of any of the following:

- (a) Failure to make any payment required hereunder when due after three (3) business days written notice;

- (b) A breach of any covenant or obligation under this Agreement which breach is not cured within five (5) days of written notice of such breach.

In the event a party is in default hereunder, the non-defaulting party may, in addition to pursuing any other right or remedy available at law or in equity, upon two (2) business days written notice to the defaulting party, terminate this Agreement; provided, however, that neither Party shall have the right to terminate this Agreement if the nature of the other Party's default is such that more than five (5) business days are reasonably required for its cure and the defaulting party commences such cure within said five (5) business day period and thereafter diligently prosecutes such cure to completion. Notwithstanding any provision herein to the contrary, EACH PARTY'S LIABILITY WITH RESPECT HERETO SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, AND IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, IN TORT, CONTRACT OR OTHERWISE. APS shall not be liable to Customer for any damages occasioned by fluctuations, interruptions or curtailment of APS' system. This limitation on damages survives the expiration or termination of this Agreement. Upon termination of this Agreement, Customer shall immediately permanently lock open the visible blade Disconnect Switch. In the event Customer fails to do so, APS shall have the right to enter the Property in order to permanently lock open the Disconnect Switch or disconnect service without liability for injury or damage to Customer or any third party and Customer hereby consents to such entry and disconnection.

18. SEVERABILITY

Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

19. WAIVER

The failure by either party hereto to require strict performance by the other party of any of the provisions, terms and conditions contained in this Agreement shall not waive, affect or diminish any right of such party at any time or times hereafter to demand strict performance thereof, and no waiver shall operate as a waiver of any other right or any right with respect to the same condition on a future occasion.

20. DISPUTE RESOLUTION

If a dispute arises between the Parties regarding a provision contained in this Agreement, or a Party's performance of its obligations as stated in this Agreement, or any other matter governed by the terms of the Agreement, the Parties agree that such dispute will be resolved in the manner prescribed in this Section.

- 20.1 Initiation and Response: Promptly upon the occurrence of the dispute, the aggrieved Party will notify the other party in writing (the "Claimant's Statement"), setting forth in sufficient detail the basis for the dispute, the aggrieved Party's position and its proposal for resolution of the dispute. Within ten (10) days following receipt of the Claimant's Statement, the other Party will respond in writing (the "Responsive Statement") setting forth in sufficient detail the respondent's position and its proposal for resolution of the dispute.
- 20.2 Good Faith Negotiation: Within ten (10) business days after the aggrieved Party's receipt of the Responsive Statement, the Parties will meet and attempt in good faith to expeditiously negotiate a resolution to the dispute. In attendance for each Party at that opening session and throughout the dispute resolution procedure described in this Section will be a representative or representatives of each Party who are authorized to act for the Party and resolve this dispute without resort to higher authority.
- 20.3 Mediation: If the Parties cannot reach a mutually acceptable solution within thirty (30) days after discussions begin, either Party may refer the matter to the Arizona Disputes Resolution Association for appointment of a qualified mediator who has no interest in the outcome of the dispute and who is qualified in the mediation of or commercial disputes as the case may be. The mediator shall be guided by the Parties desire that their objectives be attained as expressed in this Agreement, that their relationship be preserved, and that the dispute be resolved in a fair and equitable manner.
- 20.4 Confidentiality: Negotiations undertaken pursuant to this Section will be deemed confidential as settlement discussions. Nothing said by a Party, nor any position taken during the course of the negotiations will be introduced as evidence by the opposing Party in any subsequent litigation concerning the same or related transactions.
- 20.5 Condition Precedent: The exhaustion of the dispute resolution procedure provided for in this Section will be construed to be a condition precedent to the initiation of arbitration or legal action in a court of law.

21. ATTORNEY'S FEES

In the event either Party shall institute legal proceedings under or arising out of this Agreement and obtain a judgment or decree in its favor, including appeal to enforce any of the terms of this Agreement, the prevailing Party shall be entitled to recover, in addition to any other remedy, its reasonable actual attorney's fees, court costs, cost of investigation and other related costs allowed by law.

22. INSURANCE/WAIVER OF SUBROGATION

During the term of this Agreement and any extensions thereof, Customer at its option may elect to maintain public liability and property damage insurance to cover Customer's use, interconnection and operation of the GF as contemplated in this Agreement. Any insurance coverage shall not constitute a limitation of Customer's indemnity under Section 14, Indemnity hereof.

23. SIGNATURE CLAUSE

IN WITNESS WHEREOF, the PARTIES have caused this Agreement to be executed by their duly authorized representatives as of the date hereinabove set forth:

"APS":

Signature: _____

Name: _____

Date Signed: _____

"Customer":

Signature: _____

Name: Customer's name _____

Date Signed: _____

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