

DISTRIBUTION NON-PARALLEL CONNECTION AGREEMENT

PARTIES

This Distribution Non-Parallel Connection Agreement (“Agreement”) is entered into by Arizona Public Service Company (“APS”) and the APS customer of record (“Customer”) where the Generating Facility is located.

If the Customer is not the owner of the Generating Facility, the owner of the Generating Facility (“Owner,”) is also a signatory to this Agreement and agrees to be bound to all the provisions of this Agreement, which expressly or by implication apply to the owner of the Generating Facility.

Customer, Owner, and APS, as the case may be, may each be referred to in this Agreement as a “Party” and collectively as the “Parties.”

RECITALS

- A. Customer intends to install or cause to be installed a Generating Facility at property owned or leased by Customer (“Premises”).
- B. APS and Customer intend to connect the Generating Facility to APS’s electric distribution system (“APS System”), in order that Customer may operate the Generating Facility in backup only mode with the APS System. The Generating Facility will be configured or programmed to only provide backup power to Customer’s designated Essential Loads in the event of a grid outage. As a condition of this Agreement, Customer agrees not to operate the Generating Facility in parallel with the APS System.
- C. In addition to the terms and conditions set forth in this Agreement, Customer shall comply with all applicable requirements of the APS Interconnection Requirements Manual for Distributed Generation (“APS Requirements”) located at www.aps.com/dg. The APS Requirements are incorporated into and made a part of this Agreement.
- D. In addition to the terms and conditions set forth in this Agreement, the Parties shall comply with all applicable requirements of the Arizona Corporation Commission Interconnection Rules set forth at A.A.C. R14-2-2601, et seq (“ACC Rules”). The ACC Rules are incorporated into and made a part of this Agreement.
- E. Capitalized terms not defined in this Agreement have the meanings set forth in the APS Requirements or the ACC Rules, as the case may be.

AGREEMENT

The Parties agree that the Recitals are made a part of this Agreement and further agree as follows:

1. Effective Date and Term

- (a) This Agreement shall commence on the date indicated with Customer's signature set forth on the signature line and shall remain in effect until: (a) it is terminated by mutual agreement of the Parties, (b) it is replaced or superseded by another Agreement between the Parties with respect to the Generating Facility, (c) it is terminated by APS due to a breach or a default of this Agreement, (d) Customer terminates APS service, vacates or abandons the Premises, terminates or abandons the Generating Facility without APS's agreement, or (e) it is terminated by either Party upon thirty (30) days' advance written notice.
- (b) APS may terminate this Agreement by written notice to Customer if Customer fails to perform any of its obligations under this Agreement, which failure continues for thirty (30) days after receipt of written notice from APS specifying the failure. If, however, due to the nature of the failure to perform, it cannot reasonably be cured within that 30-day period, Customer will have an additional period of time, not to exceed an additional thirty (30) days, in which to cure the failure, so long as Customer has commenced the cure within the initial 30-day period and is thereafter diligently pursuing it to completion.
- (c) Upon termination of this Agreement for any reason: Customer shall immediately permanently lock open the Disconnect Switch and ensure that the electrical conductors connecting the Generating Facility to Customer's distribution system or the APS System are immediately lifted and permanently removed (collectively, "Termination Obligations"). APS may inspect the Generating Facility to verify that it is permanently disconnected as described above.
- (d) In the event that Customer fails to perform its Termination Obligations, APS may enter the Premises in order to perform the Termination Obligations, at Customer's expense.

2. Interconnection Application. Customer represents that its Interconnection Application is accurate, complies with the APS Requirements, and shall be updated as necessary during the interconnection process.

3. Sale of Premises. This Agreement shall not terminate in the event of the sale or lease of the Premises. If the ownership of the Generating Facility changes, this Agreement will remain in effect so long as the operation of the Generating Facility remains unchanged. The Customer shall provide notice to APS within seven calendar days, in the event of a change in the ownership of the Generating Facility.

4. Customer Obligations

- (a) Customer shall fully comply and cause its contractors to fully comply with the APS Requirements and the ACC Rules. Among other things, the ACC Rules

require that, in order to enable the delivery of power from the Generating Facility to the APS System at the Point of Common Coupling, Customer must provide the necessary equipment for connection, transformation, switching, protective relaying, metering, and safety (including a Customer-owned, visibly-open Disconnect Switch or Switches. Customer shall maintain the Generating Facility and all related equipment in a safe and in good operating condition.

- (b) Customer shall be solely responsible for all legal and financial obligations arising from or in connection with the ownership, design, construction, installation, operation, maintenance, and removal of the Generating Facility.

5. Disconnection and Reconnection. The Parties' rights with respect to disconnection and reconnection of the Generating Facility with the APS System are set forth in the ACC Rules at A.A.C. R14-2-2613.

6. Liability and Damages

- (a) APS MAKES NO REPRESENTATIONS AND PROVIDES NO WARRANTY OR GUARANTY (EXPRESS OR IMPLIED) WITH RESPECT TO THE DESIGN, INSTALLATION, SAFETY, USE, PERFORMANCE, DURABILITY, EFFECTIVENESS, OR TECHNICAL FEASIBILITY OF THE GENERATING FACILITY. ALL SUCH WARRANTIES ARE EXPRESSLY DISCLAIMED. APS'S TESTING OF THE GENERATING FACILITY AND REVIEW OF ANY PLANS, SPECIFICATIONS, DESIGNS, AND TEST RESULTS OF OR WITH RESPECT TO THE GENERATING FACILITY ARE FOR APS'S PURPOSES ONLY, AND SHALL NOT BE CONSTRUED AS CONFIRMING OR ENDORSING THE DESIGN OF, OR AS ANY WARRANTY WITH RESPECT TO, THE GENERATING FACILITY. APS SHALL NOT BE LIABLE FOR ANY STATEMENT, REPRESENTATION, PROMISE, INDUCEMENT, OR UNDERSTANDING OF ANY KIND THAT IS NOT EXPRESSLY SET FORTH IN THIS AGREEMENT. APS WILL HAVE NO LIABILITY FOR OR IN CONNECTION WITH ANY EQUIPMENT INSTALLED BY, OR FOR ANY ACT OR OMISSION OF, ANY OTHER ENTITY OR INDIVIDUAL, INCLUDING ANY EQUIPMENT MANUFACTURER, ELECTRICIAN, TECHNICIAN, OR OTHER SERVICE PROVIDER.

- (b) To the fullest extent permitted by law, neither APS nor any of its directors, officers, members, partners, agents, and employees, or their respective predecessors, successors or assigns (collectively, the "APS Parties") shall be liable to Customer or its directors, officers, members, partners, agents, employees, volunteers, contractors, shareholders, or trustees, or their respective predecessors, heirs, successors or assigns, or their respective insurers, for any incidental, indirect, speculative, consequential, exemplary, punitive or special damages whatsoever, including lost profits, loss of

revenue, production losses, production delays, loss of the use of equipment, cost of capital, cost of temporary equipment or services, or any and all other non-direct damages or losses arising from this Agreement or any of the actions or transactions provided for in this Agreement, even if APS is advised of the possibility thereof, and irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of Customer, APS or others), strict liability, contracts, operation of law, or otherwise. Customer hereby releases APS and the APS Parties from any such damages.

- 7. Indemnification.** To the fullest extent permitted by law, Customer shall indemnify, defend and hold harmless APS and the APS Parties for, from and against any and all liabilities, claims, damages, losses, penalties, litigation, demands, causes of action (whether in tort or contract, in law or at equity or otherwise), suits, proceedings, judgments, disbursements, charges, assessments, and expenses (including attorneys' and experts' fees and expenses incurred in investigating, defending, or prosecuting any litigation, claim, or proceeding) (each, a "Claim"), whether direct, indirect or consequential, related to, arising from, or in any way connected with: (a) the design, construction, installation, inspection, maintenance, testing or operation of the Generating Facility or equipment used in connection with this Agreement; (b) the connection of the Generating Facility with the APS Distribution System; or (c) the performance or nonperformance of Customer's obligations under this Agreement. Customer's obligations under this Section 7 shall extend to indemnify, defend, and hold harmless the APS Parties where APS or any of the APS Parties are allegedly concurrently negligent in causing or contributing to the Claim, but shall not extend to any liability caused by the sole negligence or intentional misconduct of APS or the APS Parties. It is the intent of APS and Customer that APS will, in all instances except for loss or damage resulting from APS's sole negligence, be indemnified against all liability, loss, or damage of any nature whatsoever for or on account of any injuries or death of person(s) or damages to or destruction of property belonging to any person arising out of, or in any way connected with, this Agreement or the Generating Facility. Customer's obligations under this Section will survive the termination of this Agreement.
- 8. General Terms and Conditions.** This Agreement shall be interpreted, governed by, and construed in accordance with the substantive and procedural laws of the State of Arizona, without regard to conflicts of law principles. Any action, suit, or proceeding arising out of or relating to this Agreement shall be initiated and prosecuted in a state or federal court of competent jurisdiction located in Maricopa County, Arizona, and the Parties irrevocably submit to the jurisdiction and venue of such court. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO A TRIAL BY JURY AND COVENANTS AND AGREES THAT IT WILL NOT REQUEST A TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. None of the provisions of this Agreement will be considered waived by either Party except when such waiver is given in writing. No waiver by either Party of any one or more defaults in the performance of the provisions of this Agreement will operate

or be construed as a waiver of any other existing or future default or defaults. If any one or more of the provisions of this Agreement or the applicability of any provision to a specific situation is held by a court of competent jurisdiction to be invalid or unenforceable, the provision will be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Agreement and all other applications of such provisions will not be affected by any such invalidity or unenforceability. Upon its Effective Date, this Agreement supersedes all prior agreements or commitments for connection between the Parties for the Point of Common Coupling. This Agreement may not be amended except by a written instrument executed by the Parties. Customer may not assign this Agreement or any of its rights and obligations hereunder without APS's prior written consent, and any purported assignment without APS's consent will be deemed void. This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which, when taken together, will constitute one and the same instrument. This Agreement may be executed using an electronic or digital signature. Electronic copies of signatures will be deemed effective as originals.

Customer

Authorized Signature:
Printed Name:
Title:
Date:

Owner

Authorized Signature:
Printed Name:
Title:
Date: