

**SAMPLE COMMERCIAL INTERCONNECT AGREEMENT
(GENERATING FACILITIES < 1MW NON PRIMARY SERVICE)**

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

APS AGREEMENT NO. _____

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

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

1. PARTIES

This Agreement for the interconnection of Customer's Generation Facility to the APS Distribution System (hereinafter referred to as "Agreement" or "Interconnect 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, (hereinafter called "Customer"). APS and Customer are hereinafter sometimes referred to individually as "Party" and collectively as "Parties".

2. RECITALS

The following facts and considerations are an essential and material part of the terms and conditions of this Agreement:

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

2.2 The GF shall be permanently located at **Generating Facility Location** (the "Property").

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**

No. of Units: _____

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

2.4 APS and Customer intend to interconnect their respective facilities and systems in order that Customer may operate its GF in electrical parallel with the APS System. Such interconnection and parallel operation shall be undertaken in accordance with the terms and conditions of this Agreement.

- 2.5 Customer's electric service is in the form of (single or three) phase alternating current at approximately 60 Hertz and approximately (example: 120/240) volts.
- 2.6 [Unsure if a Construction Agreement will be required]

In connection with the GF, Customer and APS may enter into a Construction Agreement to address, among other things, the costs of any upgrades to the APS System that are required to accommodate the interconnected operation of the Customer's GF.

[in the rare even that a Construction Agreement will be required – When the system size is greater than the KVA of the transformer]

In connection with the GF, Customer and APS may enter into a Construction Agreement, substantially in the form attached hereto as Appendix C, that addresses, among other things, the costs of any upgrades to the APS System that are required to accommodate the interconnected operation of the Customer's GF.

3. AGREEMENT

Now therefore, in consideration of the mutual covenants and agreements herein 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 (also referred to as "Interconnection Agreement") titled "Agreement for the Interconnection of Customer's Generation Facility to the APS Distribution System between Arizona Public Service Company and Customer," together with other exhibits attached hereto and incorporated herein by specific reference.
- 4.2 Advanced Metering Infrastructure (AMI) Device (also referred to as an "Automated Meter"): A device such as a kWh meter or system that collects and measures energy usage. AMI Devices may transmit data via a radio and/or cell phone communication system with other metering devices.
- 4.3 APS Interconnection Requirements (also referred to as the "APS IRDG"): The APS document titled "Interconnection Requirements for Distributed Generation," which outlines APS's interconnection requirements to interconnect a GF to the APS System, available at <http://www.aps.com/library/solar%20renewables/InterconnectReq.pdf> and incorporated herein.
- 4.4 The APS System (also referred to as "APS's System"): Refers to APS' electric Transmission or Distribution system. Also referred to as APS' System.

- 4.5 Bi-Directional Meter: A meter having two separate metering registers, one to record electricity delivered to the Customer and the other to record electricity received from the Customer.
- 4.6 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.
- 4.7 Customer: An APS account holder or APS “Customer of Record” that receives electric service from APS and which may also generate electricity at the Property receiving electric service.
- 4.8 Disconnect Device: A Disconnect Switch or a rack-out circuit breaker acceptable to APS to electrically isolate the Customer’s GF from the APS System.
- 4.9 Disconnect Switch: A visible open disconnect device installed by Customer that completely isolates the Customer’s GF from the APS System, including the Utility metering equipment located at the SES.
- 4.10 Electric Service: Service provided by APS to Customer in accordance with all applicable APS requirements, including but not necessarily limited to APS Service Schedule 1 (“Terms and Conditions for Standard Offer and Direct Access Services”) and the APS ESRM, whereby electricity may be delivered by APS to Customer, or electricity may be received by APS from Customer. The APS Service Schedules are available at: <http://www.aps.com/en/ourcompany/ratesregulationsresources/serviceplaninformation/Pages/home.aspx>
- 4.11 ESRM: APS’ Electric Service Requirements Manual, available at www.aps.com/esrm.
- 4.11 Generating Facility (also referred to as “GF” or “Distributed Generation Facility”): All or part of the Customer’s electrical generator(s) or inverter(s), together with the interconnection facilities and all protective, safety, and associated equipment and improvements associated with the interconnection to the APS system. A Generating Facility also includes any Qualifying Facility (QF).
- 4.12 Generator: A rotating machine or static inverter used to produce electrical power.
- 4.13 Minimum Protective Devices, Relays, and Interconnection Requirements: The minimum required protective relaying and/or safety devices or requirements specified in the APS Interconnection Requirements, as may be revised from time to time, for the purpose of protecting only APS and its other customer facilities from damage or disruptions caused by a fault, malfunction or improper operation of the Customer’s GF. Minimum Protective Devices, Relays and Interconnection Requirements do not include relaying, protective or safety devices as may be required by industry and/or government codes and standards, equipment manufacturer requirements and prudent engineering design and practice to fully

protect Customer's GF or facilities; those are the sole responsibility of the Customer.

- 4.14 NRTL: A Nationally Recognized Testing Laboratory certified by OSHA to perform a particular test standard or standards.
- 4.15 OSHA: Occupational Safety and Health Administration. See www.osha.com.
- 4.16 Performance Meter: a meter that may be required by an applicable rate schedule or other APS requirement to record the output of the GF.
- 4.17 Point(s) of Interconnection: The physical location(s) where APS' service conductors are connected to Customer's service conductors or bus to allow parallel operation of Customer's GF with the APS System.
- 4.18 Property – Has the meaning set forth in Section 2.2.
- 4.19 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, as amended.
- 4.20 Readily Accessible: Capable of being reached quickly and conveniently on a 24-hour basis, pursuant to Section 2 of the APS Interconnection Requirements, without requiring climbing over or removing obstacles, or obtaining permission, keys or security clearances.
- 4.21 Rotating Machine: An induction or synchronous machine used to generate electric power.
- 4.22 Service Entrance Section (SES): The Customer-owned main electrical panel or equipment located at its premises to which the Utility delivers electric energy via the Utility service drop or service lateral.
- 4.23 Small Power Production Facility: A facility that uses primarily biomass, waste, or renewable resources, including wind, solar, and water to produce electric power.
- 4.23 Static Inverter: An electronic device used to convert direct current (DC) power into alternating current (AC) power.
- 4.24 Termination Obligations: Has the meaning set forth in Section 5.
- 4.25 UL: Underwriters Laboratories Inc. See www.ul.com.

5. EFFECTIVE DATE AND TERM

This Agreement shall commence on the Effective Date and shall remain in effect until (a) it is terminated by mutual agreement of the Parties, (b) it is replaced or superseded by another interconnection agreement between the Parties with respect to the GF(s), (c) it is terminated by either Party pursuant to a Default of this Agreement as specified in Section 17 hereof, (d) electric service to the Customer at the Property is terminated, or (e) it is terminated by either Party upon 30 days advance written notice. Upon termination of this Agreement, Customer shall immediately permanently lock open the Disconnect Switch and shall be responsible for ensuring that the electrical conductors connecting the GF to Customer's distribution system or the APS System are immediately lifted and permanently removed, so as to preclude any possibility of interconnected operation in the future (collectively, the "Termination Obligations"). In the event Customer fails to perform the Termination Obligations, Customer hereby consents and grants access to APS to enter the premises where the GF and its related facilities are located in order to perform the Termination Obligations at Customer's expense. APS shall have no liability for personal or bodily injury or for damage to the property of Customer or any third party, arising from or related to the Termination Obligations and Customer hereby agrees to indemnify APS from and against any such liability.

6. INTERCONNECTION FACILITIES AND POINT(S) OF INTERCONNECTION

Customer shall, at its expense, install and be responsible for all facilities required to interconnect Customer's GF to the APS System including, but not limited to, connection, transformation, switching, protective relaying, metering and safety equipment, including the Customer owned, visibly-open and groundable Disconnect (Utility Isolation) Switch(es). 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 and in accordance with Section 9 of this Agreement.

7. NOTICES

All written notices pursuant to this Agreement shall be delivered by registered or certified mail including express overnight courier service, postage prepaid, return receipt requested, or by electronic mail (scanned PDF image) at the address of the Party set forth below as follows:

To APS:

Arizona Public Service
Attn: Renewable Energy Delivery
P.O. Box 53933, MS 3298
Phoenix, AZ 85072-3933

Telephone: (602) 371-6160
Email: commercial-renewables@aps.com

To Customer:

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

Telephone: Customer's phone number
Email: Customer's email

Either Party may change its address by providing written notice given to the other Party in the manner provided above. Any such notice shall be deemed to have been duly given and served on the date which is three (3) business days after the date deposited in the United States mail in accordance with this section 7, or on the date of receipt, if delivered by express overnight courier service or electronic mail (if delivered during the normal business hours of the recipient).

8. ENTIRE AGREEMENT

- 8.1 This Agreement and the documents attached hereto or incorporated herein constitute the entire Agreement between the Parties relating to the subject matter hereof. In the event of a conflict among the provisions of this Agreement or incorporated document, this Agreement shall govern. 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 only by written instrument signed by both Parties.

9. CUSTOMER'S OBLIGATIONS

- 9.1 Customer shall not commence interconnected operation of the GF with the APS System until the GF has been inspected by an authorized APS representative and written notification is received from APS allowing the GF to commence parallel operation with the APS System.

Customer shall give at least ten (10) business days written 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 GF.

- 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, and in accordance with the requirements set forth in the ESRM, the APS Interconnection Requirements, and the terms and conditions of this Agreement.

9.2.2 Control and protective devices, in addition to the Minimum Protective Devices, Relays and Interconnection Requirements, in order to protect the APS System and to protect the GF 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 the APS System in the event of a power outage on the APS System.

The GF shall be operated with all of the protective relaying, and any Customer operating procedures and switching apparatus in service whenever the GF is connected to, or is operated in parallel with, the APS System.

- 9.2.3 An acceptable visibly "open" isolation point on the Customer's side of the SES Bi-Directional Meter section, to electrically isolate the Customer-owned facilities from all APS electric service equipment in order to establish a safe work area for APS personnel.

The isolation point will comprise a load break Disconnect Device and shall be capable of being locked in a visibly “open” position by a standard APS padlock, and shall be installed in a Readily Accessible 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 Device without notice to Customer, or require Customer to lock open, the Disconnect Device (i) when interconnected operation of the GF with the APS System could adversely affect the APS System, or endanger life or property, or (ii) upon termination of this Agreement.

Customer will be required to electrically isolate the GF from the APS System at the time of install and in the event that APS needs to perform subsequent maintenance on its equipment in the metering compartment, or electric service equipment.

When an electrical clearance is required by APS and the APS electric service to Customer is at a phase to phase voltage of greater than 500 V, Customer shall provide personnel and equipment on site to open the Disconnect Switch so as to provide a visible open, groundable (on the utility side) and lockable isolation point acceptable to APS personnel.

- 9.2.4 Interconnection facilities on Customer’s premises as may be required to deliver power from Customer’s GF to the APS System at the Point of Interconnection, and all equipment downstream (Customer’s side) of the Customer’s SES.
- 9.2.5 A dedicated phone line to each Performance Meter and SES utility Bi-Directional Meter(s) and/or sub meters, as applicable. 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 the APS System or equipment, or other third 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 its GF, such as deviation from sine wave form or unusual short interval fluctuations in power demand or production, shall not result in impairment of service to other APS customers or 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. When the GF acts as a net load to the APS System, the power factor of the net load, as measured at the Point of Interconnection, shall not be less than 90% lagging, but shall not be leading, unless agreed to in writing in advance by an authorized representative of APS.

- 9.5 Customer shall protect, operate and maintain the GF safely, and in accordance with all applicable laws as well as current and prudent engineering and electric utility operations prevailing in the general region where the GF is installed.
- 9.6 Prior to the installation of the GF, Customer shall submit to APS, for APS review and written acceptance, 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, as may be revised from time to time, for the design, installation and operations of its GF.
- 9.7 Following APS written acceptance 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 acceptance by APS. No such change or modification may be made without the prior written acceptance 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 in effect during the term of this Agreement, as such standards may be modified from time to time.
- 9.9 Customer shall obtain and maintain all required permits and inspections indicating that Customer's GF complies with all applicable construction and safety codes.
- 9.10 In the event that APS provides more than one point of electrical service delivery to Customer's Property, then Customer shall (a) have controls and/or operating procedures in place that are acceptable to APS to ensure that APS' points of delivery are never connected together or electrically paralleled in anyway; and (b) ensure that the GF is never connected to an electrical service other than the one specified in this Agreement.
- 9.11 The Parties acknowledge that Customer may transact with one or more third parties in connection with the interconnection, operation and/or ownership of the GF (collectively, "Representatives"). Such Representatives may include but shall not be limited to investors, owners, lessors, lessees, or operators of the GF, property owner(s), or a third party APS retail electric customer of record, and any transferee thereof. Customer shall inform all such Representatives of the requirements of this Agreement and shall ensure that such Representatives: (i) comply with the terms of this Agreement, specifically including, but not limited to, the obligations set forth in this Section 9; and (ii) do not take actions that interfere with performance of the Agreement by APS or Customer. Customer shall remain liable for any breach of this Agreement by its Representatives.

10. MUTUAL UNDERSTANDINGS

- 10.1 Customer hereby grants APS permission to install certain instrumentation equipment, including AMI Devices, at a location on Customer's premises that is

mutually agreed to by the Parties. Such equipment shall be owned, furnished, installed and maintained by APS at its sole cost and shall not interfere with Customer's use and operation of its premises; provided, however, Customer shall afford APS continuing access to this equipment consistent with the requirements of APS' tariffs.

- 10.2 APS' makes no warranty or representation to Customer or any third party regarding the safety, durability, reliability, performance or fitness of Customer's GF or service facilities, its control or protective devices or the design, construction, installation or operation thereof.
- 10.3 Customer acknowledges that the third party contractors that Customer uses to provide, install or maintain its GF ("Third Party Contractors") are not agents, contractors, or employees of APS. Certain Third Party Contractors may use APS trademarks or logos, such as but not limited to the logo "APS Qualified Solar Installer," to promote various APS incentive or referral programs, or to indicate such Third Party Contractor is qualified to participate in such APS programs. However, customer understands and agrees that the Third Party Contractor is retained by Customer as an independent contractor and that the Third Party Contractor is solely responsible for the goods, equipment, materials and all services provided by the Third Party Contractor to Customer for the GF. Customer hereby indemnifies, releases and holds APS, its officers, directors, employees, agents, representatives, affiliates, successors and assigns harmless from any liability, damage, cost, or expense, including reasonable attorneys' fees and legal costs, that arise out of or result from the Third Party Contractor's sale or use of goods, equipment, materials or its performance of services.
- 10.4 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 reasonable notice is given to Customer prior to entering its premises; (b) maintain or repair APS equipment; (c) immediately and without prior notice disconnect or cause Customer to immediately disconnect, the GF or otherwise render the GF disconnected from the APS system (including by opening the Disconnect Switch) 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, or if, in APS' opinion, any of the protective devices or switching apparatus is not or does not appear to be operating properly; (d) verify the Disconnect Switch is opened and properly grounded, if an operating clearance is required by APS personnel.
- 10.5 If, at any time, APS in its sole discretion believes that operation of any of the GF protective and switching apparatus may impair the operation of the APS' System, then Customer shall promptly demonstrate, to APS' reasonable satisfaction, the correct calibration and operation of the equipment in question. If Customer is unable to demonstrate the correct calibration and operation of the equipment to APS's reasonable satisfaction, APS may immediately and without prior notice

disconnect or cause Customer to immediately disconnect the GF from the APS system (including by opening the Disconnect Switch).

- 10.6 APS will not install and maintain any lines or equipment on Customer's side of the Point of Interconnection except its metering and telecommunication equipment and possibly some research equipment pursuant to section 10.1 of this agreement. Only authorized APS employees or representatives are permitted to make and energize the service connection between the APS System and the Customer's SES conductors. Such employees carry credentials, which they will show to Customer upon request.
- 10.7 Notwithstanding any other provisions of this Agreement, APS shall have the right to unilaterally file with the Arizona Corporation Commission (the 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 In addition to the interconnection facilities and equipment provided for in Section 9 of this Agreement and additional safety equipment, Customer shall install, or cause to be installed, and will maintain the following Minimum Protective Devices and Relays on the GF:
 - 11.1.1 Static inverters shall be tested and certified to UL *Standard for Inverters, Converters and Controllers for use in Independent Power Systems*, UL 1741, by a Nationally Recognized Testing Laboratory (NRTL) certified by OSHA to perform the UL1741 test standard.
 - 11.1.2 Such other equipment as specified in this Agreement, or as may mutually be agreed upon by the Customer and APS from time to time during the term of this Agreement and any extensions thereof.
- 11.2 In the event APS or its authorized agents lock open, or cause to be locked open, the Disconnect Switch, Customer shall not remove or tamper with such lock.
- 11.3 Customer shall, at the time of the APS site inspection, perform a shutdown test of the inverter(s) to ensure that they shut down upon simulated loss of the utility source.

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 unreasonably withheld. 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

To the extent permitted by applicable law, each Party hereby agrees to indemnify, defend and hold harmless the other Party, its officers, agents, and employees for, from and against any and all loss, claims, actions, damages, expenses and liability, of any kind or nature, arising from personal injury (including without limitation, death) of any person other than an employee of the indemnified party, or property damage or loss of any tangible third party property, to the extent caused by any willful, wanton or reckless misconduct or any negligent or intentional act or omission, arising out of, resulting from, or related to a Party's performance or non-performance under this Agreement. This indemnification shall survive the termination or expiration of this Agreement.

15. GOVERNING LAW

This Agreement shall be governed by, construed, and enforced 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, substantial failure of or threat of substantial failure of facilities, flood, earthquake, tornado, severe storm, fire, lightning, epidemic, war, terrorism, riot, civil disturbance or disobedience, strikes, shortages in labor, materials or supplies, 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 under this Agreement or a Schedule entered into pursuant thereto, in the event of a breach of any term or condition under the Agreement or the applicable Schedule, which breach is not cured within five (5) days after receipt 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 rights 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's System. This limitation on damages survives the expiration or termination of this Agreement.

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

20.1 If a dispute arises between the Parties regarding a matter provided for in this Agreement, or a Party's performance of its obligations pursuant to this Agreement, the Parties agree that such dispute will be resolved in the manner prescribed in this Section 20.

- 20.2 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 seven (7) business 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.
- 20.3 Within five (5) business days after the aggrieved Party's receipt of the Responsive Statement, the Parties will meet (either in person or telephonically) and attempt in good faith and expeditiously to negotiate a resolution to the dispute. In attendance for each Party at that session and throughout the dispute resolution procedure described in this Section 20 will be a representative or representatives of each Party who is authorized to act for the Party and resolve the dispute without resort to higher authority.
- 20.4 In the event such negotiations do not result in a resolution of the dispute within thirty (30) calendar days of the Claimant's Statement, either Party will be entitled to seek appropriate relief in a court of competent jurisdiction.

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

[Static Inverter System \leq 2MW or Rotating Machine \leq 50 kW]

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.

[OR]

[Static Inverter System $>$ 2MW or Rotating Machine $>$ 50 kW]

Until all obligations under this Agreement are satisfied, and without limiting Customer's indemnification obligations under Section 13, Customer shall, at its own expense, maintain in force general liability insurance without any exclusion for liabilities related to the interconnection undertaken pursuant to this Interconnection Agreement. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the GF being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. The Customer shall obtain additional insurance only if necessary as a function of owning and

operating a GF. Such insurance shall be obtained from an insurance provider authorized to do business in Arizona. Certification that such insurance is in effect shall be provided upon APS's request, except that the Customer must show proof of the insurance to APS no later than ten (10) business days prior to the date upon which the GF commences interconnected operation with the APS System. If the Customer is determined by APS to be of sufficient credit-worthiness, the Customer may propose to self-insure for such liabilities.

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: _____

Title: _____

Date Signed: _____

"Customer":

Signature: _____

Name: _____

Title: _____

Date Signed: _____