



Solar Generator Interconnection Agreement Subject to Revision

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between Fort Collins Utilities (“FCU”) and _____ (“Customer”), an electric services customer of FCU at the following service address:

_____.

WITNESSES

1.0 RECITALS

WHEREAS, the Customer is located within the City of Fort Collins, Colorado, and has demonstrated the eligibility of its parallel Generating Facility (“Facility”) for participation in the Fort Collins net-metering services or Solar Feed-In Incentive program as confirmed in the approved Application for Interconnection attached as Exhibit A to this Small Generator Interconnection Agreement (“Agreement”); and

WHEREAS, FCU has determined that, if the Facility is applying for the Solar Feed-In Incentive program, an allotment of capacity in this program is available to accommodate Customer’s Generating Facility; and

WHEREAS, Customer plans to install a solar electrical generator of a size not to exceed one thousand (1,000) kilowatts of nameplate generating capacity as described below (“Generating Facility”) at the above service address and operate it in parallel with the FCU electric system; and

WHEREAS, the FCU Executive Director may authorize operation of an electric generator in parallel with the FCU electric system.

NOW THEREFORE, it is agreed between the Parties as follows:

2.0 TERM AND TERMINATION

2.1 Term: This Agreement shall become effective when executed by both Parties and shall continue in effect for a period of twenty (20) years and from year-to-year thereafter, unless terminated earlier pursuant to Section 2.2.

2.2 Termination: This Agreement may be terminated as follows:

- a. The Customer may terminate this Agreement at any time, by giving FCU sixty (60) days' written notice.
- b. Failure by the Customer to seek final acceptance by FCU within twelve (12) months after completion of FCU system modifications to accommodate this Facility.
- c. Either Party may, by giving the other Party at least sixty (60) days' prior written notice and opportunity to cure, terminate this Agreement in the event that the other Party is in default of this Agreement by reason of any unremedied breach of any material term and condition of this Agreement.
- d. In the event FCU determines this Agreement in any way presents a threat to the safety and wellbeing of the public or any person, presents a threat to the safe and reliable operation of the electric system, or presents a kind of commercial or business operations concern of FCU or its service to FCU customers, FCU reserves the right to terminate this Agreement upon thirty (30) days' advance written notice to Customer
- e. Upon termination of the Power Purchase Agreement through which the Customer supplies electric energy and other products for the benefit of FCU.

2.3 Disconnection and Survival of Obligations: Upon termination of this Agreement the Generating Facility will be disconnected from FCU's System. The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing at the time of the termination.

2.4 Suspension: This Agreement will be suspended during any period in which the Customer is not eligible for retail electric service from FCU.

3.0 SCOPE OF AGREEMENT

3.1 Scope of Agreement: This Agreement relates only to the terms and conditions on which FCU and the Customer have agreed that the Customer's Generating Facility may be interconnected and operated in parallel with the FCU System. This Agreement shall only apply to the Generating Facility identified in the approved Application, provided that the Generating Facility remains located at the service address identified in Customer's approved Application for Interconnection.

3.2 Services Covered: This Agreement provides only for interconnection service, and does not in any way entitle the Customer either to retail electric service or to transmission service for the output of its Generating Facility. FCU shall have no duty under this Agreement to account for, pay for, deliver, or return in kind any electricity produced by the Generating Facility and delivered into FCU's System unless the

system is net metered pursuant to FCU's Net Metering Rules. This Agreement does not modify or otherwise affect any other agreement between FCU and the Customer.

3.2.1 Net Metering. In the event the Generating Facility is operated for net meeting purposes, a single billing meter, which records Customer's net use of electricity, will be installed by FCU.

3.2.2 Net Metering Rates and billing. Customer will be billed for net monthly electricity consumption under the FCU applicable rate as established in Chapter 26 of the Code of the City of Fort Collins. The applicable rate is subject to change over the course of this Agreement at FCU's sole discretion. Customer will pay any and all applicable rates, fees and charges as required by Fort Collins Municipal Code, as revised. Any net excess energy generation will be applied to Customer's account on a monthly basis at the net metering rate established by the applicable rate schedule. Billing arrangements and credits for net metering energy produced by Customer shall be applied consistent with the applicable provisions described in Chapter 26 of the Fort Collins Municipal Code.

4.0 INSTALLATION, OPERATION, MAINTENANCE AND REPAIR OF CUSTOMER'S GENERATING FACILITY

4.1 Compliance with FCU Interconnection Standards: The Customer is not permitted to engage in parallel operation of its Generating Facility with the FCU System unless it has received express written authorization, in the form of a Permit to Operate, from FCU permitting parallel operation. Customer shall remain obligated throughout the term of this Agreement and any renewal term to operate and maintain its Generating Facility in accordance with the *Interconnection Standards for Generating Facilities Connected to the Fort Collins Distribution System ("FCU Interconnection Standards")* (Exhibit B hereto), as the same may be revised from time to time by the Fort Collins City Council.

4.2 Testing Verification and FCU Observation of Customer's Generating Facility: The Customer is not permitted to operate the Generating Facility in parallel with the FCU System until FCU has granted written authorization for such operation, in accordance with the following:

- a. The Customer will provide FCU with ten (10) days' written advance notice of the Customer's performance of the verification testing procedures required by the manufacturer of the Generating Facility. FCU may, at its sole option, observe the verification testing.
- b. Customer shall forward to FCU within five (5) days of the verification testing a written certification that the Generating Facility has been installed and tested

in compliance with the *FCU Interconnection Standards*, FCU-accepted design and the equipment manufacturer's instructions.

- c. After receiving the verification test notification, FCU will either issue to the applicant a Permit to Operate the Generating Facility in parallel with the FCU System, or request that the Customer and FCU set a date and time to conduct an on-site verification of the Generating Facility, for the sole purpose of determining whether the verification tests were properly performed. The Customer shall not be required to perform the verification tests a second time, unless irregularities appear in the verification test report or there are other objective indications that the tests were not properly performed in the first instance.
- d. FCU may, upon reasonable notice to the Customer and at FCU's expense, conduct on-site verification of the operations of the Generating Facility after it commences operations.
- e. The sole purpose of any observation or inspection of the Generating Facility by FCU is FCU's maintenance of safe, reliable and economical operations of the FCU System for the benefit of its customers, and FCU shall have no duty or liability of any kind whatsoever to the Customer by reason of its having conducted any inspection or observation of the Generating Facility pursuant to this Agreement.

4.3 Costs of Dedicated Facilities: During the term of this Agreement, FCU shall design, construct and install the Dedicated Facilities. The Customer shall be responsible for paying the incremental capital cost of such Dedicated Facilities attributable to the Customer's Generating Facility. All costs associated with the operation and maintenance of the Dedicated Facilities after the Generating Facility first produces energy shall be the responsibility of FCU.

4.4 Costs of Metering and Data Acquisition Equipment: The Customer shall be responsible for FCU's reasonable and necessary cost for the purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition equipment specified in Exhibit B to this Agreement. The Customer's metering (and data acquisition, as required) equipment shall conform to applicable industry rules and Operating Requirements.

5.0 DISCONNECTION OF THE GENERATING FACILITY

5.1 Emergency Disconnection: FCU may disconnect the Generating Facility, without prior notice to the Customer (a) to eliminate conditions that constitute a potential hazard to FCU personnel or the general public; (b) if pre-emergency or emergency conditions exist on the FCU System; (c) if a hazardous condition relating to the Generating Facility is observed by an FCU inspection; or (d) if the Customer has tampered with any protective device. FCU shall notify the Customer of the emergency if circumstances permit.

- 5.2 Routine Maintenance, Construction, and Repair:** FCU may interrupt interconnection service or curtail the output of the Customer's Generating Facility and temporarily disconnect the Generating Facility from the FCU System when necessary for routine maintenance, construction, and repairs on the FCU System. FCU shall provide the Customer with five (5) Business Days notice prior to such interruption, and shall use Reasonable Efforts to coordinate such reduction or temporary disconnection with the Customer.
- 5.3 Forced Outages:** During any forced outage, FCU may suspend interconnection service to effect immediate repairs on the FCU System. FCU shall use Reasonable Efforts to provide the Customer with prior notice. If prior notice is not given, FCU shall, upon request, provide the Customer written documentation after the fact explaining the circumstances of the disconnection.
- 5.4 Adverse Effects on FCU System or Other Customers:** FCU shall notify the Customer as soon as practicable if, based on Good Utility Practice, operation of the Customer's Generating Facility may cause disruption or deterioration of service to other customers served from the same electric system, or if operating the Generating Facility could cause damage to the FCU System. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon request. If, after notice, the Customer fails to remedy the adverse operating effect within a reasonable time, FCU may disconnect the Customer's Generating Facility. FCU shall provide the Customer with five (5) Business Day notice of such disconnection, except in cases of emergency.
- 5.5 Modification of Generating Facility:** The Customer must receive written authorization from FCU before making any change to the Generating Facility that may have a material impact on the safety or reliability of the FCU System. Such authorization shall not be unreasonably withheld. Modifications shall be performed in accordance with Good Utility Practice. If the Customer makes such modification without FCU's prior written authorization, FCU shall have the right to temporarily disconnect the Generating Facility pending FCU's (a) verification, and (b) resolution (at Customer's expense), of any material impacts on the FCU System resulting from Customer's modification of the Generating Facility.
- 5.6 FCU Not Liable to Customer for Disconnection:** FCU shall not be liable to Customer for damages of any type or nature whatsoever resulting from the disconnection of Customer's Generating Facility from FCU's System.
- 5.7 Disconnection by Customer:** The Customer may disconnect the Generating Facility at any time for emergencies or upon five (5) days' notice for convenience.
- 5.8 FCU Obligations Concerning Adverse Effects on Generating Facility:** If, after the Customer meets all interconnection requirements, the operations of FCU are adversely affecting the performance of the Generating Facility or the Customer's premises, FCU shall take appropriate action to eliminate the adverse effect. If FCU

determines that it needs to upgrade or reconfigure the FCU System the Customer will not be responsible for the cost of new or additional equipment beyond the point of common coupling between the Customer and FCU.

6.0 ACCESS

- 6.1 Access to Premises:** FCU shall have access to the disconnect switch of the Generating Facility at all times. At reasonable hours and upon reasonable notice consistent with Articles 4 and 5 of this Agreement, or at any time without notice in the event of an emergency, FCU shall have access to the Premises.
- 6.2 FCU and Customer Representatives:** FCU shall designate, and shall provide to the Customer, the name and telephone number of a representative or representatives who can be reached at all times to allow the Customer to report an emergency and obtain the assistance of FCU. For the purpose of allowing access to the premises, the Customer shall provide FCU with the name and telephone number of a person who is responsible for providing access to the Premises.
- 6.3 FCU Right to Access to FCU-Owned Facilities and Equipment:** If necessary for the purposes of this Agreement, the Customer shall allow FCU access to FCU's equipment and facilities located on the Premises. To the extent that the Customer does not own all or any part of the property on which FCU is required to locate its equipment or facilities to serve the Customer under this Agreement, the Customer shall secure and provide in favor of FCU the necessary rights to obtain access to such equipment or facilities, including easements if the circumstances so require.

7.0. DISPUTE RESOLUTION

- 7.1 Good Faith Resolution of Disputes:** Each Party agrees to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner.
- 7.2 Mediation:** If a dispute arises under this Agreement, and if it cannot be resolved by the Parties within ten (10) Business Days after written notice of the dispute, the Parties agree to submit the dispute to mediation by a mutually acceptable mediator, in a mutually convenient location in Colorado, in accordance with the then current International Institute for Conflict Prevention and Resolution Mediation Procedure. The Parties agree to participate in good faith in the mediation for a period of up to 90 days. In the event that mediation does not result in a resolution of the dispute between the Parties by the end of the 90-day period set forth in the preceding sentence, each Party shall then be free to take any action available to it under law to enforce its rights under this Agreement.
- 7.3 Escrow:** If there are amounts in dispute of more than two thousand dollars (\$2,000), the Customer shall either place such disputed amounts into an independent escrow account pending final resolution of the dispute in question, or provide to FCU an appropriate irrevocable standby letter of credit in lieu thereof.

8.0 ASSIGNMENT, LIABILITY, FORCE MAJEURE, CONSEQUENTIAL DAMAGES, AND DEFAULT

8.1 Assignment

This Agreement may be assigned by either Party only with the written consent of the other Party, which consent shall not be unreasonably withheld, and a Party wishing to assign its interest in this Agreement shall provide fifteen (15) Business Days prior written notice and opportunity to object by the other Party; provided that:

- a. Either Party may assign this Agreement without the consent of the other Party to any affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement (including, as to the Customer, those obligations relating to the size, location and operating characteristic of the Facility), and undertakes in writing to perform those obligations
- b. The Customer shall have the right to assign this Agreement, without the consent of FCU, for collateral security purposes to aid in providing financing for the Generating Facility, provided that the Customer will promptly notify FCU of any such assignment.
- c. Any attempted assignment that violates this article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. An assignee is responsible for meeting the same financial, credit, and insurance obligations as the Customer. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

8.2 Liability and Insurance

- a. In no event shall FCU be held responsible for the safety, reliability, design, or protection of the Generating Facility.
- b. The Customer will not be allowed to commence or continue interconnected operations unless evidence is provided to FCU that satisfactory insurance coverage is in effect at all times. The scope of, and other requirements applicable to, such coverage shall be those set forth currently in Section 9.0 of the *FCU Interconnection Standards*, as the same may be amended from time to time. Such liability insurance shall not exclude coverage for any incident related to the Customer's Facility or its operation, and FCU shall be named as an additional insured under the liability policy. The liability and indemnity provisions currently set forth in Section 9.0 of the *FCU Interconnection Standards*, as the same may be amended from time to time, and as expressly supplemented by this Section 8.2, shall apply to this Agreement.

- c. Any insurance policy required herein shall provide, by endorsement to the policy, that FCU shall not by reason of its inclusion as an additional insured incur liability to the insurance carrier for the payment of premium of such insurance. FCU shall be permitted to periodically obtain proof of current insurance coverage from the Customer in order to verify proper liability insurance coverage.
- d. Nothing herein shall be construed to create any duty to, any standard of care with reference to, or any liability to any third person other than FCU and the Customer. FCU is not liable for damages caused to the facilities, improvements or equipment of the Customer by reason of the operation, faulty operation or nonoperation of FCU facilities.
- e. Customer shall be solely responsible for and shall defend, indemnify and hold FCU harmless from and against any and all claims or causes of action for personal injury, death, property damage, loss or violation of governmental laws, regulations or orders, which injury, death, damage, loss or violations occurs on or is caused by operation of equipment or facilities on the Customer's side of the point of connection. Notwithstanding the above, the Customer shall be solely responsible for and shall defend, indemnify and hold harmless FCU from and against any and all claims or causes of action for personal injury, death, property damage or loss or violation of governmental laws, regulations or orders, wherever occurring, which injury, death, damage, loss or violation is due solely to the acts of omissions of such Customer, including but not limited to the use of defective equipment or faulty installation or maintenance or equipment by Customer. However, nothing contained in this section shall be construed as relieving or releasing either party from liability or personal injury, death, property damage or loss, or violation of governmental laws, regulations or orders, wherever occurring, resulting from its own negligence or the negligence of any of its officers, servants, agents or employees. In the event of concurrent negligence, liability shall be apportioned between the parties according to each party's respective fault. Neither the Customer nor FCU shall be liable to the other or any other third party, in contract or in tort or otherwise, for loss of use of equipment and related expenses, expense involving cost of capital, claims of customers of FCU or the Customer, as applicable, loss of profits or revenues, cost of purchase or replacement power, or any indirect, incidental or consequential loss or damage whatsoever.
- f. Customer shall pay all costs that may be incurred by FCU in enforcing the indemnity described herein. Each party's liability to the other party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either party be liable to the other party for any indirect, incidental, special, consequential, or punitive damages of any kind whatsoever.g . The liability of FCU is governed, limited and controlled by the Governmental Immunity Act, Colo. Rev. Stat. §§ 24-10-101 *et seq.*, as now or hereafter amended. Nothing in this Agreement shall be construed as

a limitation or waiver of the immunities provided under said Act. The Parties acknowledge that this Agreement is intended to document the conditions and requirements to be met by Customer and FCU, in order for FCU to provide interconnection service and allow for parallel generation of power by Customer, as described herein, and that this Agreement is not intended to, and does not, impose upon FCU any obligations to Customer except as expressly set forth in this Agreement or to give rise to any special liabilities of FCU for the benefit of Customer, except for those obligations or liabilities that FCU has as a general matter to its electric utility customers. Neither Customer nor FCU shall be liable to the other or any third party, in contract or in tort or otherwise, for loss of use of equipment and related expenses, expense involving cost of capital, claims of FCU customers or Customer, as applicable, loss of profits or revenues, cost of purchase or replacement power, or any indirect, incidental or consequential loss or damage whatsoever.

- h. In no event shall either Party be liable to the other Party for any indirect, special, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages under this Agreement.

8.3 Force Majeure

- a. The term “Force Majeure” means an act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities (other than FCU in its capacity as the provider of generator interconnection service under this Agreement), or any other cause which, with the exercise of reasonable diligence, a Party has been unable to avoid and which, by the exercise of all efforts reasonable in the circumstances, a Party is unable to overcome, which disables a Party from performance of its obligations under this Agreement, other than an obligation to make payments when due. Force Majeure does not include an act of negligence or intentional wrongdoing, and neither economic harm to a Party, nor the financial condition of a Party, constitute Force Majeure under this Agreement.
- b. In the event that a Party is prevented by Force Majeure from fulfilling its obligations under this Agreement (other than obligation to make payments when due), the Party whose performance is prevented by Force Majeure shall promptly notify the other Party in writing of the existence of the Force Majeure Event, specifying in reasonable detail the circumstances of the Force

Majeure, its expected duration, and the steps that the Party claiming disability due to Force Majeure is taking to overcome the Force Majeure and resume performance. The Party claiming disability due to Force Majeure shall keep the other Party informed on a continuing basis of developments relating to the Force Majeure until the Force Majeure ceases to prevent the relevant performance.

8.4 Default

- a. No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement or the result of an act or omission of the other Party. Upon a Default, the non-defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in article 8.4.b., the defaulting Party shall have 60 calendar days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within 60 calendar days, the defaulting Party shall commence such cure within 20 calendar days after notice and continuously and diligently complete such cure within six months from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.
- b. If a Default is not cured as provided in this article, or if a Default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

9.0 GENERAL PROVISIONS

- 9.1 Waivers. Any waiver at any time by any Party of its rights with respect to the other Party or with respect to any matter arising in connection with this Contract shall not be considered a waiver with respect to any other prior or subsequent default or matter.
- 9.2 Notices. Notices shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, electronic mail or facsimile. Notice by electronic mail, facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

Notices to Customer shall be sent to the address or other points of contact provided in the Customer's signature block to this Agreement.

Notices to FCU shall be sent to:

Director
Fort Collins Utilities
700 Wood Street
Fort Collins, CO 80521
Phone: 970-221-6700
Fax: 970-221-6619
e-mail:

- 9.3 Governing Law and Venue. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado, notwithstanding any laws requiring the application of the laws of another state. The exclusive jurisdiction and venue for any action arising from or relating to this Agreement shall be the District Court for the Eighth Judicial District of Colorado, sitting in Larimer County.
- 9.4 Headings Not to Affect Meaning. The descriptive headings used for the various Articles and sections herein have been inserted for convenience and reference only and shall in no way affect the meaning or interpretation, or modify or restrict any of the terms and provisions hereof.
- 9.5 No Dedication of Facilities. Any undertakings or commitments by one Party to the other Party under this Contract shall not constitute the dedication of the system or any portion thereof of any Party to the public or to the other Party.
- 9.6 Relationship of the Parties. Nothing contained in this Contract shall be construed to create an association, joint venture, partnership or any other type of entity or relationship between FCU and Customer, or between either or both of them and any other Party.
- 9.7 Third-Party Beneficiaries. This Contract is intended solely for the benefit of the Parties thereto, and nothing therein will be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party thereto.
- 9.8 Entire Contract. This Contract and the attached appendices constitute the entire agreement between the Parties, and parol or extrinsic evidence shall not be used to vary or contradict the express terms of this Contract.
- 9.9 Amendment. This Contract shall be amended or modified only by the mutual written agreement of both FCU and Customer.
- 9.10 Counterparts. This Contract may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

IN WITNESS WHEREOF the Customer has executed this Agreement the day and year first above written.

CUSTOMER

By: _____ [OR:]
Company Name: _____
Signature: _____
Name, title: _____
Date: _____

Interconnection Customer Information

Name: _____
Address: _____
Telephone: _____
Utility Account #: _____

EXHIBIT A: Parallel Generation Interconnection Application
EXHIBIT B: Fort Collins Utilities Interconnection Standards