

**GENERATOR INTERCONNECTION AND OPERATING AGREEMENT
FOR
PROJECTS UP TO 550 kW**

This Generator Interconnection and Operating Agreement (“Agreement”) is entered into on [\(insert date of last signature from page 8\)](#) by Consumers Energy Company (the “Utility”), _____ (the “Customer”), and (if applicable under Section 5) _____ (the “Property Owner”). Utility and Customer are sometimes also referred to in this Agreement collectively as “Parties” or individually as “Party.” Customer shall be the “Project Developer” as used in and for purposes of the applicable Michigan Electric Utility Generator Interconnection Procedures (“Interconnection Procedures”) approved by the Michigan Public Service Commission (“Commission”).

I. RECITALS

- A. Customer is an electric service customer of Utility in good standing and has submitted a Generator Interconnection Application (“Application”) to Utility.
- B. Customer desires to interconnect an electric generating facility with a maximum capacity of 550 kilowatts (“kW”) or less (the “Customer Facility”) with Utility’s electric distribution system and operate the Customer Facility in parallel with Utility’s distribution system, under the Utility’s Interconnection Procedures for Level 1, 2, and 3 projects, as defined in the Electric Interconnection and Distribution Generation Standards approved by the Commission (the “Standards”), as applicable.
- C. For purposes of this Agreement, “interconnect” means establishing a connection between a non-utility generating resource (in this case, the Customer Facility) and Utility’s distribution system. “Operate in parallel” means generating electricity from a non-utility resource (in this case, the Customer Facility) that is connected to Utility’s system. In all cases, terms shall have the meaning as defined in the Standards.
- D. Interconnection of the Customer Facility with Utility’s distribution system is subject to this Agreement, the Application, the Interconnection Procedures, the Standards and utility tariffs approved by the MPSC, as applicable.
- E. This Agreement does not address any purchase or sale of electricity between Utility and Customer nor does it create any agency, partnership, joint venture or other business arrangement between or among Utility, Customer and/or Property Owner.

II. AGREEMENT

NOW THEREFORE, in consideration of the above recitals, the mutual covenants contained herein and for good and valuable consideration, the Parties agree as follows:

1. Description of Customer Facility

- 1.1 The Customer Facility must be built with the following ratings, which shall not be changed without thirty (30) days advance written notice to Utility according to the notice requirements herein and as depicted in Exhibit 1 – Interconnection Diagram:

Photovoltaic/Solar (“PV”) Array Rating: _____ (AC) kW

Photovoltaic/Solar (“PV”) Array Rating: _____ (DC) kW

Wind Turbine (WT) Rating: _____ kW

Hydroelectric Turbine (HT) Rating: _____ kW

Fuel Cell (FC) Rating: _____ kW

Battery Rating: _____ kW

Battery Rating: _____ kWh

Battery Chemistry (e.g., lead acid, lithium ion): _____

Battery Coupling: AC DC

Other (specify type and rating): _____ kW

Service Type: Single Phase Three Phase

Backup Generation on site: Yes No

Voltage Level: _____

Equipment Specifications: Make: _____ Model: _____

[Additional Details:](#) _____

- 1.2 Customer Facility Location:

[Street Address, City, State, Zip](#)

If Customer is not the owner of the property identified above, the Property Owner must sign this Agreement for the purposes indicated in Section 5.

- 1.3 Parcel ID(s) for the property(ies) where the Customer Facility is located: _____

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2. Interconnection Facilities

If it is necessary for Utility to install certain interconnection facilities (“Interconnection Facilities”) and make certain system modifications in order to establish an interconnection between the Customer Facility and Utility’s distribution system, the Interconnection Facilities and modifications shall be described to the Customer in writing.

3. Design Requirements, Testing and Maintenance of Customer Facility

- 3.1 Customer shall be responsible for the design and installation of the Customer Facility and obtaining and maintaining any required governmental authorizations and/or permits, which may include, but shall not be limited to, easements to clear trees, and necessary rights-of-way for installation and maintenance of the Utility Interconnection Facilities.

- 3.2 Customer shall, at its sole expense, install and properly maintain protective relay equipment and devices to protect its equipment and service, and the equipment and system of Utility, from damage, injury or interruptions, and will assume any loss, liability or damage to the Customer Facility caused by lack of or failure of such protection. Such protective equipment specifications and design shall be consistent with the applicable Interconnection Procedures. Prior to the Customer Facility operating in parallel with Utility distribution system, Customer shall provide satisfactory evidence to Utility that it has met the Interconnection Procedures, including but not limited to the receipt of approval from the local building/electrical code inspector. The Utility's approval, or failure to approve, under this section shall in no way act as a waiver or otherwise relieve the Customer of its obligations under this section.
- 3.3 At its own expense, Customer shall perform operational testing at least five (5) days prior to the installation of any Interconnection Facilities by Utility. Utility may but is not required to send qualified personnel to the Customer Facility to inspect the facility and observe the testing. Upon completion of such testing and inspection, and prior to interconnection, Customer shall provide Utility with a written report explaining all test results, including a copy of the generator commissioning test report.

Customer shall test protective equipment in accordance with manufacturer's specifications, unless no testing interval is provided, in which case testing shall occur every two years (unless an extension is agreed to by Utility) to verify the calibration indicated on the latest relay setting document issued by Utility. The results of such tests shall be provided to Utility in writing for review and approval. Utility may, at any time and at its sole expense, inspect and test the Customer Facility to verify that the required protective equipment is in service, properly maintained, and calibrated to provide the intended protection. This inspection may also include a review of Customer's pertinent records. Inspection, testing and/or approval by Utility or the omission of any inspection, testing and/or approval by Utility pursuant to this Agreement shall not relieve the Customer of any obligations or responsibility assumed under this Agreement.

- 3.4 Customer shall operate and maintain the Customer Facility in a safe and prudent manner and in conformance with all applicable laws and regulations. Customer shall obtain or maintain any governmental authorizations and permits required for construction and operation of the Customer Facility.

4. **Disconnection**

Utility shall be entitled to disconnect the Customer Facility from Utility's distribution system, or otherwise refuse to connect the Customer Facility, if: (a) Customer has not complied with any one of the technical requirements contained in the applicable Interconnection Requirements, (b) the electrical characteristics of the Customer Facility are not compatible with the electrical characteristics of Utility's distribution system, (c) an emergency condition exists on Utility's distribution system, (d) Customer's protective relay equipment fails, (e) Utility determines that the Customer Facility is disrupting service to any Utility customer, (f) disconnection is required to allow for construction, installation, maintenance, repair, replacement, removal, investigation, inspection or testing of any part of Utility's facilities, (g) if a required installation (e.g., communication circuit) fails or becomes incapacitated and is not repaired in a timely manner, as determined by Utility, or (h) Customer commits a material breach of this Agreement. When reasonable and appropriate, the Utility will attempt to notify Customer and coordinate its actions under this Section 4 with Customer. This section applies only to Utility actions with respect to Customer Facility. Utility shall promptly reconnect the Customer Facility to the Utility's distribution system as soon as the reason for disconnection has been remedied.

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5. Access to Property

- 5.1 At its own expense, Customer shall make the Customer Facility site available to Utility. The site shall be free from hazards and shall be adequate for the operation and construction of the Interconnection Facilities. Utility, its agents and employees, shall have full right and authority of ingress and egress at all reasonable times on and across the property at which the Customer's Facility is located, for the purpose of installing, operating, maintaining, inspecting, replacing, repairing, and removing the Interconnection Facilities. The right of ingress and egress shall not unreasonably interfere with Customer's or (if different) Property Owner's use of the property and does not include the right to enter applicant's residence or other enclosed structure on the property where the Customer Facility is located with the residence or other enclosed structure.
- 5.2 Utility may enter the property on which the Customer Facility is located to inspect, at reasonable hours, Customer's protective devices and read or test meters. Utility will use reasonable efforts to provide Customer or Property Owner, if applicable, at least 24 hours' notice prior to entering said property, in order to afford Customer or Property Owner the opportunity to remove any locks or other encumbrances to entry; *provided, however*, that Utility may enter the property without notice (removing, at Customer's expense, any lock or other encumbrance to entry) and disconnect the Interconnection Facilities if Utility believes that disconnection is necessary to address a hazardous condition and/or to protect persons, Utility's facilities, or the property of others from damage or interference caused by Customer's Facility.
- 5.3 By executing this Agreement, Property Owner consents to and agrees to provide access to its property, including ingress and egress, on which the Customer Facility is located to Utility as described in this section, but does not assume or guarantee other performance obligations of the Customer under this Agreement.

6. Liability

- 6.1 As between the Parties, unless caused by the sole negligence or intentional wrongdoing of the other Party, each Party to this Agreement shall at all times assume all liability for, any and all damages, losses, claims, demands, suits, recoveries, costs, legal fees, and expenses to the extent caused by its directors, officers, employees, and agents: (a) for injury to or death of any person or persons whomsoever occurring on its own system, and/or (b) for any loss, destruction of or damage to any property of third persons, firms, corporations or other entities occurring on its own system, including environmental harm or damage arising out of or resulting from, either directly or indirectly, the Interconnection Facilities, or the Customer Facilities, arising out of or resulting from, either directly or indirectly, any electric energy furnished to it hereunder after such energy has been delivered to it by such other Party.
- 6.2 The provisions of this Section 6 shall not be construed to relieve any insurer of its obligations to pay any insurance claims in accordance with the provisions of any valid insurance policy.
- 6.3 Notwithstanding anything in this Section, or any other provision of this Agreement to the contrary, any liability of a Party to the other Party shall be limited to direct actual damages, and all other damages at law or in equity are hereby waived. Under no circumstances shall a Party be liable to the other Party, whether in tort, contract or other basis in law or equity for any special, indirect, punitive, exemplary or consequential damages, including lost profits.

- 6.4 The obligations and limits on liability in this Section 6 shall continue in full force and effect notwithstanding the expiration or termination of this Agreement, with respect to any event or condition giving rise to an indemnification obligation that occurred prior to such expiration or termination.
- 6.5 Nothing in this Section 6 waives or limits, or shall be construed to waive or limit, the governmental immunity of a Party.
- 6.6 Nothing in this Section 6 shall imply, or be construed to imply indemnification of any Party by the State of Michigan, its department, and agencies or other governmental customers that are restricted from entering into indemnification provisions by law.

7 Insurance

For Level 3 and greater projects, Customer shall obtain and continuously maintain throughout the term of this Agreement General Liability insurance written on a standard occurrence form, or other form acceptable to the Utility, and covering bodily injury and property damage liability with a per occurrence and annual policy aggregate amount of at least:

<u>Interconnection Level</u>	<u>Minimum Limit</u>
1 & 2	Not applicable
3	\$1,000,000

When requested in writing by the Utility, said limit shall be increased each year that this Agreement is in force to a limit no greater than the amount arrived at by increasing the original limit by the same percentage change as the Consumer Price Index - All Urban Workers (CPI-U.S. Cities Average). Such policy shall include, but not be limited to, contractual liability for indemnification assumed by Customer under this Agreement.

Consumers Energy Company, its Directors, Officers, and Employees are to be included as ADDITIONAL INSURED and such coverage shall be primary to any insurance maintained by Consumers Energy Company. The Utility shall not be responsible for any unpaid premiums under Customer's policy.

Evidence of insurance coverage on a certificate of insurance shall be provided to the Utility upon execution of this Agreement and thereafter within ten (10) days after expiration of coverage; however, if evidence of insurance is not received by the 11th day, the Utility has the right, but not the duty, to purchase the insurance coverage required under this Section 7 and to charge the annual premium to Customer. Customer shall provide the Utility thirty (30) days advance written notice if the policy is cancelled or substantial changes are made that affect the additional insured. At the Utility's request, Customer shall provide a copy of the policy to the Utility.

All certificates and notices shall be sent to:

CONSUMERS ENERGY COMPANY
 Attn: Insurance Risk Management One Energy Plaza
 Jackson, MI 49201-2276
 InsuranceCertificates@cmsenergy.com

8. Subcontractors

Either party may contract with a subcontractor to perform its obligations under this Agreement and shall incorporate the obligations of this Agreement into its respective subcontracts, agreements and

purchase orders. Each party shall remain liable to the other Party for the performance of such subcontractor under this Agreement subject to the provisions of Section 6.

9. **Force Majeure**

Neither party shall be liable for failure to perform and of its obligations hereunder, to the extent due to fire, flood, storm, other natural disaster, national emergency or war (referred to collectively as “Force Majeure”), and not due to labor problems, inability to obtain financing, negligence or other similar condition of such party, provided that either party has given the other prompt notice of such occurrence. The party affected shall exercise due diligence to remove such Force Majeure with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

10. **Breach and Default**

A breach of this Agreement (“Breach”) shall occur upon the failure of a Party to perform or observe any material term or condition of this Agreement. Upon a Breach by one Party, the non-breaching Party shall give written notice of such Breach to the breaching Party. The Party in Breach shall have thirty (30) days from the date of the written notice to cure the Breach. If a Breach is not cured within the thirty (30)-day period provided for herein, the Party in Breach shall be deemed in default (“Default”). The non-defaulting Party shall then have the right to terminate this Agreement by written notice, shall be relieved of any further obligations hereunder, and may pursue any and all remedies available to it at law or in equity.

11. **Retirement**

Upon termination or cancellation of this Agreement or at such time after any of the Interconnection Facilities described herein are no longer required, the Parties shall mutually agree upon the retirement of the Interconnection Facilities, which may include without limitation (i) dismantling, demolition, and removal of equipment, facilities, and structures, (ii) security, (iii) maintenance and (iv) disposing of debris. The cost of such removal shall be borne by the Customer.

12. **Governing Law**

This Agreement shall be interpreted, governed, and construed under the laws of Michigan.

13. **Amendment, Modification or Waiver**

Any amendments or modifications to this Agreement shall be in writing and agreed to by both Parties. The failure of any Party at any time to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by any Party of the breach of any term or covenant contained in this Agreement, whether by conduct or otherwise, shall be deemed to be construed as a further or continuing waiver of any such breach or a waiver of the breach of any other term or covenant unless such waiver is in writing.

14. **Notices**

Any notice required under this Agreement shall be in writing and mailed, personally delivered or electronically mailed to the Party at the address below. Written notice is effective within 3 days of depositing the notice in the United States mail, first class postage prepaid. Personal notice or electronic mail notice is effective upon delivery, provided it is received by 5:00 p.m. local time at the recipient's business location on a business day (or otherwise, on the next business day). Written notice of any address changes shall be provided. Utility may consider changes of address in other Utility systems of record (e.g., customer billing address) as notice of address change under this Agreement. All written notices shall refer to the Customer's Utility account number, as provided in Section 1 of this Agreement. All written notices shall be directed as follows:

Notice to Utility:

Notice to Customer:

Notice to Property Owner (if different than Customer):

15. **Term of Agreement and Termination**

This Agreement shall become effective upon execution by all Parties and, if applicable, the Property Owner, and it shall continue in full force and effect until terminated upon thirty (30) days' prior notice by the Customer, upon Default of either Party as set forth in Section 10, or upon mutual agreement of the Parties. The Utility may terminate the agreement on reasonable notice for reasons consistent with existing law, regulations and tariffs.

16. **Entire Agreement**

This Agreement supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof and constitutes the entire agreement between the Parties hereto.

17. **No Third Party Beneficiary**

The terms and provisions of this Agreement are intended solely for the benefit of each Party, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person or entity.

18. **Assignment and Binding Effect**

This Agreement shall not be assigned by a Party without the prior written consent of the other Party. Any attempt to do so will be void. Subject to the preceding, this Agreement is binding upon, inures to the benefit of, and is enforceable by the Parties and their respective successors and assigns. Customer agrees to notify Utility in writing upon the sale or transfer of the Customer Facility. This Agreement shall terminate upon such notice unless Utility consents to an assignment.

19. **Severability**

If any provision of this Agreement is determined to be partially or wholly invalid, illegal, or unenforceable, then such provision shall be deemed to be modified or restricted to the extent necessary to make such provision valid, binding, and enforceable; or, if such provision cannot be modified or restricted in a manner so as to make such provision valid, binding or enforceable, then such provision shall be deemed to be excised from this Agreement and the validity, binding effect, and enforceability of the remaining provisions of this Agreement shall not be affected or impaired in any manner.

20. **Effective Date**

This Agreement is effective as of the later (or latest) of the dates set forth below.

21. **Counterparts and Electronic Documents**

This Agreement may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be deemed an original. Any document generated by the parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

CONSUMERS ENERGY COMPANY

(Customer)

By: _____
(Signature)

By: _____
(Signature)

(Print or Type Name)

(Print or Type Name)

Title: _____

Title: _____

Date: _____

Date: _____

(Property Owner, if applicable)

By: _____
(Signature)

(Print or Type Name)

Title: _____

Date: _____

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EXHIBIT 1
INTERCONNECTION DIAGRAM

(Insert one of the eighteen One-Line Diagrams (PDF file) for the various size and type of generator that will be installed.)