



NON-RESIDENTIAL AGREEMENT FOR SERVICE
EXPERIMENTAL ADVANCED RENEWABLE PROGRAM AR

PART I

Customer Name: _____
 Customer Address: _____
 Electric Delivery Account No.: _____
 Area Code and Telephone: _____ Facsimile: _____
 Electronic Mail Address: _____
 Date of Provisional Award: _____
 Residential Customer (Yes/No): No
 Initial Generator Nameplate
 Capacity (kW DC-STC): _____
 Delivery Rate Code: _____
 AR Rate (\$/kWh): \$ /kWh
 AR Rate with Incentive Adder (\$/kWh): \$ /kWh

Terms and Conditions attached as Part II and all Exhibits are part of this Agreement.
CUSTOMER ACKNOWLEDGES HAVING READ SAID TERMS AND CONDITIONS AND
AGREES TO SAID TERMS AND CONDITIONS.

 ("Customer")

CONSUMERS ENERGY COMPANY
 1945 W. Parnall Road
 Jackson, MI 49201
 ("Company")

By: _____
(Signature)

By: _____
(Signature)

Date: _____

Date: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Note: Education and Governmental customers may also require a resolution form.

PART II

TERMS AND CONDITIONS

This Agreement for Service, herein called “Agreement”, under the Company’s Experimental Advanced Renewable Program (“EARP”) is made and entered into as of the date identified in Part I, between the Company and the Customer, both identified in Part I. Company and Customer are herein sometimes referred to individually as “Party” and collectively as “Parties”, where appropriate.

1. General: A Generator Interconnection and Operating Agreement (“GIOA”) with the Company and this Agreement or a subsequent such Agreement must be in effect for the duration of the period that the Company provides service under Rate Schedule Experimental Advanced Renewable Program AR (“Rate AR”) as part of the EARP, and the Consumers Energy Electric Delivery Account identified in Part I of this Agreement must remain active and be in Customer’s name for the duration of this Agreement. In the event of a conflict between this Agreement and the Company’s Rate Book (as such Rate Book may be amended during the term of this Agreement), service hereunder shall be governed by the Company’s Rate Book.

2. Effective Date and Term: The effective date (“Effective Date”) of this Agreement will be the first date upon which all of the following precedent conditions have been satisfied:

- (i) Customer shall have submitted an application for a GIOA with the Company and paid all required fees associated with such application;
- (ii) Customer shall have provided Company with proof satisfactory to Company that Customer has either (a) obtained sufficient financing of the electric generation equipment to be used to supply energy to Company under this Agreement, (b) purchased said electric generation equipment, or (c) entered into a binding obligation to purchase and install said electric generation equipment.
- (iii) If the electric generation equipment to be used to supply energy to Company under this Agreement is or will be installed on land leased by the Customer, Customer shall have provided Company with proof satisfactory to Company that Customer has such a lease and that Customer has sufficient rights under such lease to construct and operate the electric generation equipment for the duration of this Agreement.

In the event that this Agreement does not become effective within sixty (60) days of the Date of Provisional Award identified in Part I, this Agreement shall be deemed to be null and void and the Parties shall have no further obligation to each other.

Once effective, unless terminated as provided in this Agreement, this Agreement shall continue in effect until the earlier of (a) fifteen (15) years after the Commercial Operation Date and (b) August 31, 2029.

3. Generator Equipment Nameplate Capacity: The nameplate capacity (in kW DC-STC) of Customer's Generator Equipment may be up to an amount, but not more than, the (i) Initial Generator Equipment Nameplate Capacity (if greater than 10 kW) identified in Part I plus five percent (5%) or (ii) the Initial Generator Equipment Nameplate Capacity (if less than or equal to 10 kW) plus 0.5 kW (in DC-STC). The Final Generator Equipment Nameplate Capacity shall be specified in Exhibit A to this Agreement. In no event shall the sum of (a) the Final Generator Equipment Nameplate Capacity, (b) the nameplate capacity of any Customer electric generation systems participating in the Company's net metering program, (c) the nameplate capacity of any other Customer electric generation systems participating in the EARP, or (d) the nameplate capacity of any Customer self-generation, exceed 20 kW if Customer is a residential customer of Company or 150 kW if Customer is a non-residential customer of Company. The Final Generator Nameplate Capacity shall not be modified without the written consent of the Company.

4. Commercial Operation Date: Subject to the terms and conditions of this Agreement, Customer shall sell and deliver to Company and Company shall purchase and accept electric energy from the Generator Equipment at the EARP Point of Delivery specified in Exhibit A beginning on the Commercial Operation Date and continuing until termination of this Agreement. The "Commercial Operation Date" of this Agreement will be the first date upon which all of the following conditions precedent have been satisfied (subpart (iii) must be satisfied after subparts (i) and (ii) are satisfied):

- (i) Customer shall have executed a GIOA with the Company and received written authorization from the Company to operate Customer's Generator Equipment in parallel with Company's distribution system;
- (ii) Customer shall have provided to Company a signed, fully completed affidavit substantially in the form of Exhibit A attached hereto and such affidavit shall have satisfied the requirements for at least one of the Michigan incentive renewable energy credits specified in MCL 460.1039(2)(d) and MCL 460.1039(2)(e).
- (iii) Customer's Generator Equipment meter shall have been read by the Company.

In the event that the Commercial Operation Date fails to occur within one (1) year after the Date of Provisional Award, Company shall have the right to terminate this Agreement upon written notice to Customer, to be effective as of the date specified in such notice.

5. Company Payment Obligations: The Company agrees to compensate the Customer for energy produced by their Generator Equipment and delivered to the Company's distribution system ("Delivered Energy") at the AR Rate specified in Part I of this Agreement. Notwithstanding the foregoing, in the event that the Affidavit provided by the Customer in accordance with subpart (ii) of Section 4 herein satisfies the requirements for both Michigan incentive renewable energy credits specified in MCL 460.1039(2)(d) and MCL 460.1039(2)(e), then the compensation to Customer for Delivered Energy hereunder shall be at the AR Rate with Incentive Adder specified in Part I of this Agreement. At its sole option, the Company may

either make payment to the Customer or credit the Customer's Electric Delivery Account as identified in Part I.

6. Customer Payment Obligations: The Customer will make payment to the Company if the Rate AR charges payable by the Customer to the Company exceed the Rate AR compensation for energy due to the Customer from the Company.

7. Metering: All Delivered Energy delivered by Customer to Company shall be metered by the billing metering installed and owned by the Company. In the event that Customer's Generator Equipment is connected on the primary side of the transformer, Delivered Energy shall be equal to the metered value plus three percent (3%) of such value.

8. Energy Delivery to Customer: All energy delivered to the Customer by the Company to the EARP Point of Delivery specified in Exhibit A while this Agreement is in effect will only be used by the Generator Equipment identified in Exhibit A to this Agreement.

9. Character of Energy Delivered: All Delivered Energy shall be 60 Hertz, alternating current, single-phase or three-phase (as governed by Rule D8 of the Company's Electric Interconnection and Net Metering Standards).

10. Emissions Allowances and Environmental Attributes: During the term of this Agreement, all capacity, energy, and any and all emissions allowances and environmental attributes (such as renewable energy credits), including any greenhouse gas reductions, associated with the Generator Equipment and Delivered Energy covered by this Agreement (except to the extent that such capacity, energy, emissions allowances and environmental attributes are consumed by the generating equipment in the process of generating capacity, energy, emissions allowances and environmental attributes) are bundled with the Delivered Energy hereunder and cannot be separated by the Customer. The Customer shall assign and/or execute any documents necessary to either transfer ownership or to designate the Company as the Customer's agent to acquire ownership of any and all emissions allowances and environmental attributes. The foregoing emission allowances and environmental attributes may be used by the Company to satisfy the requirements of Michigan Public Act 295 of 2008 and any other applicable ordinances, laws, orders, rules, or regulations pertaining to emission allowances and environmental attributes including but not limited to requirements for renewable energy production. The Customer will cooperate with the Company, at the Company's expense, to certify the Generator Equipment covered by this Agreement as a renewable energy resource under any renewable energy standard or emissions allowance program the Generator Equipment may qualify for. The Company will pay any and all registration fees, subscription fees, and any other fees associated with any emissions allowances, environmental attributes, or renewable energy credits that are transferred to the Company pursuant to this Agreement.

Throughout the term of this Agreement, the Company shall have the right to inspect and certify the Generator Equipment in order to ensure that all Emissions Allowances and Environmental Attributes are preserved, and the Customer shall cooperate fully as needed in such endeavors ("Access Rights").

11. Representations and Warranties: As of the Commercial Operation Date, Customer represents and warrants to Company (and APX, Inc. and any successor, as applicable) that:

- (i) The Customer holds sole legal title or leasehold interest to the Generating Equipment identified in Exhibit A and will continue to hold sole legal title or leasehold interest to said equipment for the duration of this Agreement;
- (ii) The Customer designates the Company as the Responsible Party (as such term is defined and/or used by MIRECS) with respect to the Generator Equipment identified in Exhibit A for the term of this Agreement;
- (iii) The Customer has not granted similar authority or permission with respect to subpart (ii) above to any other Account Holder (as such term is defined and/or used by MIRECS) for use in MIRECS or any similar registry or tracking system;
- (iv) The Generator Equipment identified in Exhibit A consists of a solar photovoltaic electric generating system that will generate electric energy from natural sunlight;
- (v) The Generator Equipment identified in Exhibit A is or will be installed on the same premises to which electric energy is delivered to the Customer for purposes unrelated to the Generator Equipment, or on land owned or leased (for the duration of this Agreement) by the Customer that is contiguous to such premises;
- (vi) If Customer is a residential customer of Company, the Customer is not a tax exempt entity.

12. Assignment: This Agreement shall not be assigned by the Customer without the prior written consent of the Company, which shall not be unreasonably withheld, and any attempted assignment without such consent shall be void.

13. Limitation on Liability: Neither Party shall in any event be liable to the other for any incidental or consequential damages such as, but not limited to, lost profits, revenue or good will, interest, loss by reason of shutdown or non-operation of equipment or machinery, increased expense of operation of equipment or machinery, cost of purchased or replacement power or services or claims by customers, whether such loss is based on contract, warranty, negligence, strict liability or otherwise, even if it has been advised of the possibility of such damages.

14. Early Termination After Commercial Operation Date: The Company may terminate this Agreement upon written notice in the event that any of the following occur:

- (i) Any representation or warranty made by Customer is false or misleading in any material respect when made or when deemed made or repeated;
- (ii) Any Default by Customer is not cured within ninety (90) calendar days of the date the Customer receives notice of the Breach;

- (iii) The Customer ceases to operate its Generator Equipment;
- (iv) The Consumers Energy Electric Delivery Account or subsequent account (including Retail Open Access customer accounts) is transferred to a new account holder or disconnected as described in Section 17;
- (v) The ownership of the Generator Equipment changes.

15. 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 or the applicable tariffs. A default of this Agreement (“Default”) shall occur upon the failure of a Party in Breach of this Agreement to cure such Breach within five (5) business days of written notification of the Breach. Examples of a breach of the Agreement include, but are not limited to:

- (i) Failure of either Party to pay money when due;
- (ii) Failure of either Party to comply with the terms and conditions of this Agreement;
- (iii) An attempted assignment of this Agreement by Customer without Company’s prior written consent;
- (iv) Failure of Customer to provide Company Access Rights, or Customer’s attempt to revoke or terminate such Access Rights;
- (v) Failure of either party to provide information or data to the other Party as required under this Agreement.

If Customer is in Default under this Agreement, the Company may suspend its performance under this Agreement and/or disconnect service to the Generator Equipment without incurring any liability to Customer. The Company shall resume its performance under the Agreement and reconnect service to the Generator Equipment after Customer has cured the Default that resulted in suspension of the Agreement/disconnection to the Company’s satisfaction. The Company reserves the right to terminate the Agreement if a Default by Customer is not cured within ninety (90) calendar days of the date the Customer receives notice of the Breach.

16. Suspension of the Agreement: In the event that the Company suspends the Agreement, the Customer will be notified within five (5) business days of such suspension and all compensation under Rate AR will cease until the Agreement is reinstated. No compensation will be made for energy delivered during the time the Agreement is suspended. Compensation for energy delivered during the suspension will be made retroactively if the Agreement is reinstated. If the Agreement is not reinstated by Company the Customer will not receive compensation for any energy delivered during the suspension unless and only to the extent that the Michigan Public Service Commission determines that payment is warranted.

17. Maintenance of Consumers Energy Electric Delivery Account: At all times during the term of this Agreement the Customer agrees to maintain either the Consumers Energy Electric Delivery Account identified in Part I or a subsequent account (including Retail Open Access customer accounts) at the same location. The Customer shall notify the Company within ten (10) business days of any transfer or disconnection of the Consumers Energy Electric Delivery Account.

If the Consumers Energy Electric Delivery Account or subsequent account (including Retail Open Access customer accounts) is transferred to a new account holder, the Company, at its sole option, may terminate this Agreement. If the Company terminates this Agreement, the Company may establish a new agreement through the Expiration Date identified in Part I with the new account holder.

If the Consumers Energy Electric Delivery Account or subsequent account is disconnected during the term of this Agreement, the Company, at its sole option, may: (i) continue its performance under this Agreement and offset amounts owed by the Customer to the Company attributable to Generating Equipment service or the Electric Distribution Delivery Account identified in Part I, (ii) continue its performance under this Agreement and make payment to the Customer, or (iii) terminate this Agreement.

18. No Partnership: This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither the Customer nor the Company shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other except as expressly provided for in this Agreement.

19. No Third Party Beneficiaries: This Agreement is intended for the benefit of the parties hereto and does not grant any rights to any third parties unless otherwise specifically stated herein.

20. Notices: All notices required hereunder shall be in writing and shall be sent by First Class United States, postage prepaid mail or delivered in person to the Parties at their respective addresses as set forth below. Either the Company or the Customer may at any time change the addressee or address to which notices to it are to be mailed or delivered by giving written notice of such change to the other. All Notices shall become effective upon date of receipt.

Company:

Consumers Energy
Director of Transactions and Wholesale Settlements
1945 W. Parnall Road
Jackson, MI 49201

Customer:

_____, _____

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.

Exhibit A
Non-Residential Customers

Affidavit

I, _____ (Name and Title), of _____ (Company Name), a Michigan [or name state] (corporation, limited partnership, limited liability company, etc.), herein referred to as the Company, do hereby depose and say under oath that the following statements are true, to the best of my information, knowledge and belief:

1. I am an authorized representative of the Company.
2. The Company owns and operates a solar photovoltaic plant, known as _____ (Plant name) at _____ (address of plant site), herein referred to as the Plant.
3. The Plant meets the requirements for a renewable energy system pursuant to Michigan Public Act 295 of 2008.
4. The Plant is capable of producing Michigan incentive renewable energy credits pursuant to Michigan Public Act 295 of 2008 Section 39 (2) (c), MCL 460.1039 (2) (e).
5. The Plant was constructed using _____% in-field labor by residents of the State of Michigan, where such percentage was calculated by dividing total number of in-field labor hours attributed to the construction of the Plant performed by residents of the State of Michigan by the total in-field labor hours attributed to construction of the Plant.

a. Company 1, address, contact information

b. Company 2, address, contact information

AND/OR

6. The Plant was constructed using _____% equipment and materials manufactured or assembled in the state of Michigan, where such percentage was calculated by dividing the U.S. dollar cost of equipment and materials manufactured or assembled in the state of Michigan by the total U.S. dollar cost of all equipment and materials used to construct the Plant.

a. Company 1, address, brief description of equipment manufactured or assembled in the state of Michigan

b. Company 2, address, brief description of equipment manufactured or assembled in the state of Michigan

7. The EARP Point of Delivery is: _____

Township: _____

County: _____

8. The Generator Equipment:

Inverter: Manufacturer: _____

 Model No. _____

 Rating (kW): _____

 Number of Inverters: _____

PV Modules: Manufacturer: _____

 Model No. _____

 Rating (kW): _____

 Number of PV Modules: _____

9. The Cost of Generator Equipment is: _____

10. The Cost of Labor to Install
 Generator Equipment is: _____

11. The Final Generator Nameplate
 Capacity (kW DC-STC) is: _____

12. The Service Type and Voltage is: _____

Witness my hand under the penalties of perjury this _____ day of _____ 20__.

_____(Company Name)

By: _____

Title: _____

(Address, telephone number and electronic mail address of affiant.)

I, _____, a Notary Public of the County and State aforesaid, hereby certify that _____ personally known to me to be the affiant in the foregoing affidavit, personally appeared before me this day and having been by me duly sworn deposes and says that the facts set forth in the above affidavit are true and correct.

Witness my hand and official seal this the _____ day of _____, _____.

(SEAL)

Notary Public

My Commission expires: ____ / ____ / _____.