



## COMMERCIAL CUSTOMER-OWNED GENERATION AGREEMENT

### Residential Customer-Owned Electric Generating Systems

This COMMERCIAL CUSTOMER-OWNED GENERATION AGREEMENT ("Agreement") is between \_\_\_\_\_ ("Customer") and Springville City - Department of Power ("Springville City Power"). Customer and Springville City Power may be referred to collectively herein as "Parties" and individually as "Party."

**Pursuant to Springville City Code, Policy, or other regulations the Customer may not generate electric energy without a license and may not obtain a license without entering into this Agreement. The purpose of this Agreement is to define Customer's obligations and responsibilities, subject to which Customer may, at the discretion of Springville City Power, interconnect and operate an electric generating system.**

### 1 CUSTOMER ELECTRIC GENERATING SYSTEM

1.1 Commercial Customer -Owned Electric Generating Systems Application is hereby incorporated into this Agreement as Exhibit A.

1.2 Springville City Power standard rates for this installation and service will apply, as defined in the City Comprehensive Fee Schedule, except as modified by this document or applicable state or federal law.

1.3 Customer has elected, in accordance with Springville City Commercial Customer-Owned Generation Policy, to operate, at its own expense, a customer owned generation facility and production metering system in parallel with Springville City Power's electrical system. This generating system is intended to offset either part or all of the Customer's electrical requirements.

1.4 The electrical generating system used by the Customer shall be located on the Customer's premises. It shall include all equipment necessary to meet applicable safety, power quality, and interconnection requirements. The electrical generating system shall comply with Springville City Power Commercial Customer-Owned Generation Standards.

1.5 Springville City Power shall have the sole authority to determine which interconnection requirements set forth herein (including Exhibits) are applicable to Customer's proposed installation.

1.6 Any costs or expenses incurred by Springville City Power due to modifications made to Springville City Power's existing electric power system as a result of the interconnection of Customer's generating system shall be paid by the Customer. All costs must be paid in full prior to the connection to Springville City Power's electrical system.



1.7 Springville City Power will be the owner of the renewable attributes of the electricity that is generated, to include any and all credits, certificates, benefits, environmental attributes, emissions reductions, offsets, and allowances, however entitled, attributable to the generation of electricity from the customer-owned renewable generation and its displacement of conventional energy generation.

## **2 CUSTOMER ELECTRIC GENERATING SYSTEMS**

**2.1 Fees, charges, and rates described herein are subject to change at any time by action of the Springville City Municipal Council. Such changes include, but are not limited to, increasing, reducing, or eliminating established fees, charges, or rates; modifying or removing existing rate classes; adding new rate classes; and adding new fees, charges, or rates, whether such fees, charges, or rates are applicable to all Springville City Power customers or only to customers in a defined group or class that includes Customer. Changes to fees, charges, and rates may reduce or eliminate any return on investment (ROI) anticipated by the Customer when installing an electrical generating system.**

2.2 Springville City Power shall determine the electricity received by the utility or delivered to the Customer and the amounts to be billed to Customer during each billing period in accordance with the Springville City Comprehensive Fee Schedule and City metering practices, **which may be amended from time to time.**

2.3 Electricity supplied by Springville City Power and delivered to the Customer shall be billed by Springville City Power at the rate paid by other customers of Springville City Power in the same rate class as Customer.

2.4 Electricity generated by the Customer and received by Springville City Power's distribution system shall be credited for the kilowatt-hours received, with this kilowatt-hour credit appearing on the Customer's monthly bill in which the kilowatt-hours were received by Springville Power. This monthly customer credit which consists of (kWh received x the applicable Customer-Owned Generation Export Rate) will be deducted from the energy delivered to the customer which consists of (kWh delivered x the applicable customer rate).

2.5 Customer shall also be charged any applicable customer fees or charges, including, but not limited to, those customer fees and charges paid by other Springville City Power customers in the Customer's rate class. Credits described in paragraph 2.4 shall not offset fees and charges, but shall only be used to offset rate charges for electric energy supplied to Customer single service location by Springville City Power.

2.6 During each billing cycle, Customer kilowatt-hour credit amounts exceeding the charge for kilowatt-hours supplied to the customer by Springville City Power will be granted to Springville City, without any compensation to the Customer.



2.7 No third party can be a beneficiary of a customer-owned generation systems (PPA's, Landlord selling power to tenant, etc.).

### **3 INTERRUPTIONS OR REDUCTION OF DELIVERIES**

#### **3.1 Definitions**

A.) Curtailment- temporary, mandatory power load reduction taken when there is a risk that the utility cannot meet its power requirements and retain a prudent reserve margin.

B.) Interruption-total loss of energy being supplied by the utility.

C.) Reduction- process in which the utility drops off part of the load in order to balance the demand and the generated capacity

3.2 Springville City Power may require Customer to interrupt or reduce deliveries as follows: (a) when necessary in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any of its equipment or part of its system; (b) if Springville City Power determines in its sole judgment that curtailment, interruption, or reduction is necessary because of emergencies or compliance with good electrical practices, as determined by Springville City Power.

3.3 To the extent reasonably practicable, Springville City Power shall give Customer notice of possible interruption or reduction of deliveries.

Notwithstanding any other provision of this Agreement, if at any time Springville City Power determines in its sole judgment that either (a) the electric generation system may endanger Springville City Power personnel, (b) the continued operation of customer's electric generation system may endanger the integrity of the Springville City Power electric system, or (c) the electric generation system has been changed or modified without written approval from its approved Customer –Owned Electric Generating Systems Application, Springville City Power shall have the right to disconnect Customer's electric generation system from the Springville City Power electric system. Customer's electric generation system shall remain disconnected until such time as Springville City Power is satisfied that the condition(s) leading to disconnection have been corrected.

### **4 INTERCONNECTION**

4.1 Customer shall comply with Springville City Power's Commercial Customer-Owned Generation Standards and shall pay for designing, installing, inspecting, operating, and maintaining Customer's electric generating system in accordance with all applicable laws and regulations.



4.2 Customer shall deliver all excess energy to Springville City Power at the Customer's premises. Springville City Power will install and maintain a revenue meter capable of registering the flow of electricity at the Customer's premises at a level of accuracy that meets all applicable standards, regulations, and statutes or, at the option of Springville City Power, a separate meter will be installed to measure production of the renewable generation source.

4.3 Customer shall pay for any non-standard meter electrical hook-up requested by the Customer.

4.4 Customer shall not commence parallel operation of the generating system until inspection and written approval of the interconnection has been given by Springville City Power. Such approval shall not be unreasonably withheld. Springville City Power shall have the right to have representatives present at the initial testing of Customers' protective apparatus, and the Customer shall notify Springville City Power of its intent to test Customer's electric generating system not less than two (2) working days prior to any scheduled test.

4.5 Once in operation, Customer shall make no changes or modifications in the equipment, wiring, or the mode of operation of the electric generating system without the prior written approval of Springville City Power.

## **5 MAINTENANCE AND PERMITS**

Customer shall:

5.1 Obtain an electrical permit and pass electrical inspection before Customer's electric generating system can be connected or operated in parallel with Springville City Power's electric system.

5.2 Provide to Springville City Power written certification (Certificate of Completion) that Customer's electric generating system has been installed and inspected in compliance with the local building and/or electrical codes.

5.3 Maintain Customer's electric generating system and interconnection facilities in a safe and prudent manner and in conformance with all applicable laws and regulations including, but not limited to, Springville City Power's Customer Owned Generation Standards.

5.4 Obtain any governmental authorizations and permits required for the construction and operation of Customer's electric generating system and interconnection facilities, including electrical permit.

5.5 Reimburse Springville City Power for any and all losses, damages, claims, penalties, or liability it incurs as a result of Customer's failure to obtain or maintain any governmental authorizations and permits required for construction and operation of Customer's electric generating system or failure to maintain Customer's electric generation system as required in this Section.



## **6 ENTRY ONTO PROPERTY**

Springville City Power may enter Customer's premises or property:

- A. to inspect, at all reasonable hours, Customer's protective devices and to read meter(s); and
- B. to disconnect the interconnection facilities at the Springville City Power meter or transformer, without notice, if, in Springville City Power's opinion, an unsafe or hazardous condition exists and such immediate action is necessary to protect persons, Springville City Power facilities, or property of others from damage or interference caused by Customer's electric generating facilities, or lack of properly operating protective devices or inability to inspect the same.

## **7 INDEMNITY AND LIABILITY**

7.1 The Customer assumes the risk of all damages, loss, cost, and expense and agrees to indemnify the City of Springville, its successors and assigns, and its respective directors, officers, employees and agents, from and against any and all claims, losses, costs, liabilities, damages and expenses including, but not limited to, reasonable attorney fees, resulting from or in connection with performance of the agreement or which may occur or be sustained by Springville City on account of any claim or action brought against the City for any reason, including, but not limited to, loss to the electrical system of the Customer caused by or arising out of an electrical disturbance.

7.2 Such indemnity, protection, and hold harmless includes any demand, claim, suit or judgment for damages, death or bodily injury to all persons, including officers, employees or agents, and subcontractors of either Party hereto, including payment made under or in connection with any Worker's Compensation Law or under any plan for employees' disability and death benefits or property loss that may be caused or contributed to by the interconnection, maintenance, operation, use, presence, or removal of Customer's equipment.

7.3 The provisions of this Section 7 shall not be construed to relieve any insurer of its obligations to pay any insurance claims in accordance with the provisions of any insurance policy.

7.4 Springville City shall have no liability, ownership interest, control or responsibility for the Customer's electric generating facility or its interconnection with Springville City Power's electric system, regardless of what Springville City Power knows or should know about the Customer's electric generating facility or its interconnection.

7.5 Customer recognizes that it is waiving immunity under Utah Industrial Insurance law, Title 51 RCW, and further agrees that this indemnification clause has been mutually negotiated. This indemnification shall extend to and include attorney's fees and the costs of establishing the right of indemnification hereunder in favor of the City of Springville City.



## **8 FORCE MAJEURE**

8.1 Suspension of Obligations. Neither Party shall be liable to the other for, or be considered to be in breach of or default under this Agreement because of, any failure or delay in performance by such Party under this Agreement to the extent such failure or delay is caused by or results from any cause or condition which is beyond such Party's reasonable control, or which such Party is unable to prevent or overcome by exercise of reasonable diligence (any such cause or condition, a "Force Majeure"), including breach of contract or failure of performance by any person providing services to the City of Springville.

8.2 Notice; Required Efforts to Resume Performance. Any Party claiming Force Majeure shall give the other Party notice of any failure or delay resulting from a Force Majeure, and shall use its reasonable best efforts to overcome the Force Majeure and to resume performance as soon as possible; provided, however, that nothing in this Agreement shall be construed to require either Party to settle any labor dispute in which it may be involved.

8.3 No Excuse of Payment Obligations. Notwithstanding any other provision of this Agreement, in no event shall a Force Majeure excuse a Party's failure or delay to pay any amounts due and owing to the other Party under or pursuant to this Agreement.

## **9 RELATIONSHIP OF THE PARTIES**

The Parties hereto are independent contractors and shall not be deemed to be partners, employees, franchisees or franchisers, servants, or agents of each other for any purpose whatsoever under or in connection with this Agreement.

## **10 ASSIGNMENT; BINDING AGREEMENT**

The Customer shall not assign its rights under this Agreement to any other Party without the express written consent of Springville City Power. Springville City Power may impose reasonable conditions on any such assignment to ensure that all of Customer's obligations under this Agreement are met and that none of Customer's obligations are transferred to Springville City Power as a result of default, bankruptcy, or any other cause.

## **11 NO THIRD PARTY BENEFICIARIES**

Except as expressly set forth in this Agreement, none of the provisions of this Agreement shall inure to the benefit of, or be enforceable by, any third Party.



## **12 ENTIRE AGREEMENT**

This Agreement and the Exhibits attached hereto set forth the entire agreement of the Parties and supersede any and all prior agreements with respect to the subject matter of this Agreement. The rights and obligations of the Parties hereunder shall be subject to and governed by this Agreement.

## **13 GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Utah (regardless of the laws that might otherwise govern under applicable principals of conflicts of law of such state). Venue for any action arising under or in connection with this Agreement shall be in the Fourth District Court for Utah County, Utah.

## **14 RULES OF CONSTRUCTION; STATUTORY REFERENCES**

No provision of this Agreement shall be construed in favor of or against either of the Parties hereto by reason of the extent to which any such Party or its counsel participated in the drafting thereof or by reason of the extent to which such provision or any other provision or provisions of this Agreement is or are inconsistent with any prior draft thereof. Any reference to statutes or laws will include all amendments, modifications, or replacements of the specific sections and provisions concerned.

## **15 AMENDMENT, MODIFICATIONS 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 or times to require performance of any provision hereof shall in no manner affect the 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 waiver of the breach of any other term or covenant unless such waiver is in writing.

## **16 NOTICES AND OTHER COMMUNICATIONS**

Notice Methods and Addresses. All notices, requests, demands and other communications required or permitted to be given under this Agreement shall be given in writing. All notices to either Party shall be made to the addresses set forth below. Any notice shall be deemed to have been given on the date delivered, if delivered personally, by overnight air courier service, or by facsimile transmission; or, if mailed, shall be deemed to have been given on the date shown on the return receipt as the date of



delivery. Customer shall be under an ongoing obligation to provide notice of any change to the Customer's notice address.

If Customer fails to do so, any notice sent by Springville City Power shall be deemed to have been given on the date on which the United States postal service certifies that it was unable to deliver.

Department Director	Springville City Attorney	Customer _____
Springville City Power	110 South Main	Name _____
777 North 450 West	Springville City, UT 84663	Address _____
Springville City, UT 84663		
TEL 801-489-2750		TEL _____
		FAX _____

## 17 EXHIBITS

The Agreement includes the following Exhibits attached and incorporated by reference: Exhibit A: Customer-Owned Generating System License Application.

## 18 TERM OF AGREEMENT

This Agreement shall be and remain in effect until terminated by either Party on thirty (30) days' prior written notice. The Customer's electric generating system may be disconnected from Springville City Power's electrical system at any time if, for any reason or no reason.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

### Customer

Signature \_\_\_\_\_ DATE \_\_\_\_\_

Name \_\_\_\_\_

### Springville City Power

Signature \_\_\_\_\_ DATE \_\_\_\_\_

Name \_\_\_\_\_