

PRECEDENT AGREEMENT

This Precedent Agreement (“Precedent Agreement”) is made and entered as of the _____ day of _____ 2022 (the “Effective Date”), by and between Intermountain Power Agency, a political subdivision of the State of Utah (“IPA”), and _____, a _____, organized and existing under the laws of the State of _____ (“Interconnection Customer”). Interconnection Customer and IPA each may be referred to as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, IPA owns the IPA Switchyard (as defined below) and has contracted with the Operating Agent (as defined below) to serve as its agent in the operation of the IPA Switchyard and other assets of IPA, and has contracted with Intermountain Power Service Corporation (as defined below) to provide personnel and services to assist, under the direction of the Operating Agent, in the operation of the IPA Switchyard and such other assets of IPA; and

WHEREAS, Interconnection Customer intends to own, lease and/or control and operate a Facility (as defined below); and

WHEREAS, Interconnection Customer submitted to IPA a request to interconnect its Facility (as described more fully in Exhibit A) with IPA’s facilities; and

WHEREAS, Interconnection Customer and IPA desire to enter into this Agreement for the purpose of defining the conditions under which the Facility will be interconnected to IPA’s facilities (as defined below);

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

I. DEFINITIONS

When used in this Agreement, terms with initial capitalization that are not defined in this Paragraph 1 shall have the meanings specified in the Paragraph in which they are used.

Anticipated Commencement of Service Date shall mean the date that IPA and Interconnection Customer anticipate interconnection will commence, as set forth in Exhibit A.

Down Payment shall mean Interconnection Customer’s payment obligation, as set forth in Paragraph III(C), for the IPA Interconnection Facilities attributable to interconnecting Interconnection Customer’s Facility to IPA’s facilities, as well Interconnection Customer’s proportional share of any Switchyard Upgrades.

Facility shall mean Interconnection Customer’s

_____ **Generating Facility** for the production (and/or storage for later injection) of electricity identified in the Interconnection Request. The Facility does not include Interconnection Customer's Interconnection Facilities.

_____ **Transmission Facility** for the transmission of electricity to, and injection at, the IPA Switchyard as identified in the Interconnection Request. The Facility does not include Interconnection Customer's Interconnection Facilities.

_____ **Energy Storage Facility** for the receipt of electricity from the IPA Switchyard for the purpose of energy storage, such as through using electrolysis to produce hydrogen, as identified in the Interconnection Request. The Facility does not include Interconnection Customer's Interconnection Facilities.

Interconnection Agreement shall mean a(n)

_____ Generator Interconnection Agreement entered into pursuant to the GIP;

_____ Transmission Interconnection Agreement entered into pursuant to the TIP;

_____ Energy Storage Interconnection Agreement entered into pursuant to processes and studies based on the GIP and TIP, as applicable;

Interconnection Customer's Interconnection Facilities shall mean all facilities and equipment that are located between the Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Facility to IPA's facilities. Interconnection Customer's Interconnection Facilities shall be owned by Interconnection Customer and are sole use facilities.

Interconnection Facilities shall mean the IPA Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Facility to IPA's facilities. Interconnection Facilities are sole use facilities and shall not include Switchyard Upgrades.

Interconnection Procedures shall mean either of the following, as may be amended from time to time:

_____ Generator Interconnection Procedures ("GIP")

_____ Transmission Interconnection Procedures ("TIP")

Interconnection Request shall mean the Interconnection Customer's request for interconnection service submitted to IPA pursuant to the Interconnection Procedures, as described in Exhibit A.

Intermountain Power Service Corporation shall mean, Intermountain Power Service Corporation, or its successor or assign, which has contracted with IPA to provide services to IPA

and the Operating Agent, as IPA's agent, in connection with the operation, repair and maintenance of the IPA Switchyard and other components of IPA's facilities.

IPA Interconnection Facilities shall mean all facilities and equipment from the Point of Change of Ownership to the Point of Interconnection, including any modifications, additions or upgrades to such facilities and equipment, which shall be owned by IPA.

IPA Switchyard shall mean the alternating current ("AC") switchyard owned by IPA and located at the Intermountain Generating Station site near Delta, Utah.

Operating Agent shall mean IPA's operating agent, the Los Angeles Department of Water and Power.

Point of Change of Ownership shall mean the point where the Interconnection Customer's Interconnection Facilities connect to the IPA Interconnection Facilities.

Point of Interconnection shall mean the point where the Interconnection Facilities connect to the IPA facilities.

Switchyard Upgrades shall mean the additions, modifications and upgrades to equipment and facilities beyond the Point of Interconnection that are not Interconnection Facilities such as breakers or other equipment (but not upgrades to the capacity of transmission lines that are part of the IPA Switchyard) to accommodate the interconnection of the Facility to IPA's facilities.

II.

OBLIGATION TO ENTER INTO INTERCONNECTION AGREEMENT

Subject to the conditions precedent set forth in Paragraph VI, IPA and Interconnection Customer shall enter into an Interconnection Agreement that shall provide for the interconnection of Interconnection Customer's Facility to IPA's facilities.

III.

INTERCONNECTION CUSTOMER'S OBLIGATIONS

A. Within thirty (30) days after execution of this Precedent Agreement, Interconnection Customer will advise IPA in writing of: (i) any facilities that Interconnection Customer must construct, or cause to be constructed, in order for Interconnection Customer to utilize the interconnection service contemplated in this Precedent Agreement; and (ii) any necessary or desirable governmental, contractual and/or regulatory authorizations, approvals, certificates, permits and/or exemptions associated with the facilities identified pursuant to (i) above ("Interconnection Customer's Authorizations").

B. Subject to the terms and conditions of this Precedent Agreement, Interconnection Customer shall proceed with due diligence to obtain Interconnection Customer's Authorizations. Customer reserves the right to file and prosecute applications for Interconnection Customer's Authorizations, and, if necessary, any court review, in a manner it deems to be in its best interest;

provided, however, Interconnection Customer shall pursue Interconnection Customer's Authorizations in a manner designed to implement the interconnection service contemplated herein in a timely manner. IPA agrees to use reasonable efforts to assist Interconnection Customer in obtaining Interconnection Customer's Authorizations. Interconnection Customer agrees to promptly notify IPA in writing when each of the required authorizations, approvals and/or exemptions are received, obtained, rejected or denied. Interconnection Customer shall also promptly notify IPA in writing as to whether any such authorizations, approvals and/or exemptions received or obtained are acceptable to Interconnection Customer.

C. Interconnection Customer shall submit to IPA a Down Payment in the amount of \$5 million as a down payment on the costs of IPA's Interconnection Facilities attributable to interconnecting Interconnection Customer's Facility to IPA's facilities, as well Interconnection Customer's proportional share of any Switchyard Upgrades. Specifically, promptly following the execution of this Precedent Agreement, IPA shall submit an invoice, in the above-referenced amount, to Interconnection Customer at the address specified in Paragraph IX. The invoice shall be due and payable by Interconnection Customer thirty (30) calendar days after it is submitted. The payment shall be made by wire transfer to a bank named and account designated by IPA. IPA shall place the funds in an interest bearing account and shall use the funds to pay for costs of the IPA Interconnection Facilities attributable to interconnecting Interconnection Customer's Facility to IPA's facilities, as well Interconnection Customer's proportional share of any Switchyard Upgrades, except and unless the conditions precedent set forth in Paragraph VI are not within two years after the Anticipated Commencement of Service Date, in which case the funds are forfeit pursuant to Paragraph VII. If the IPA Interconnection Facilities attributable to interconnecting Interconnection Customer's Facility to IPA's facilities, as well Interconnection Customer's proportional share of any Switchyard Upgrades, cost less than \$5 million plus accrued interest, IPA will refund the difference to the Interconnection Customer.

IV. EXECUTION OF INTERCONNECTION AGREEMENT

To effectuate the interconnection service contemplated herein, Interconnection Customer and IPA agree that, no later than sixty (60) days following the date on which IPA tenders an Interconnection Agreement to Interconnection Customer, IPA and Interconnection Customer will each execute a the Interconnection Agreement.

V. ANTICIPATED INTERCONNECTION SERVICE COMMENCEMENT DATE

A. Upon execution of the Interconnection Agreement, IPA shall proceed with due diligence to construct the IPA Interconnection Facilities (as well Interconnection Customer's proportional share of any Switchyard Upgrades) and to implement the interconnection service contemplated in this Precedent Agreement on the Anticipated Commencement of Service Date. On and after the date on which IPA has notified Interconnection Customer that interconnection service under the Interconnection will commence, IPA shall provide interconnection service for Interconnection Customer pursuant to the terms of the Interconnection Agreement, and

Interconnection Customer shall pay IPA for all applicable charges required by the Interconnection Agreement.

B. Notwithstanding IPA's due diligence, if IPA is unable to commence the interconnection service for Interconnection Customer as contemplated by the date specified in "A" above, IPA will continue to proceed with due diligence to complete arrangements for such interconnection, and commence the interconnection service for Interconnection Customer at the earliest practicable date thereafter. IPA will neither be liable nor will this Precedent Agreement or the Interconnection Agreement be subject to cancellation if IPA is unable to complete the construction of such Interconnection Facilities and commence the interconnection service contemplated herein by the Anticipated Commencement of Service Date.

VI. CONDITIONS PRECEDENT

Commencement of interconnection service under the Interconnection Agreement and the rights and obligations of IPA and Interconnection Customer under the Interconnection Agreement are expressly made subject to satisfaction of the following conditions precedent:

A. IPA's conditions precedent (only IPA shall have the right to waive the conditions precedent set forth in this Paragraph VI(A)):

- (i) Receipt and acceptance by IPA of all Interconnection Customer's Authorizations, as set forth in Paragraph III(A);
- (ii) Receipt of Interconnection Customer's Down Payment, as set forth in Paragraph III(C);
- (iii) Execution of a System Impact Study Agreement;
- (iv) Execution of a Facilities Study Agreement;
- (v) Approval of an Interconnection Agreement by the IPA Coordinating Committee and IPA Board of Directors;
- (vi) Execution of an Interconnection Agreement;
- (vii) Completion of construction of the necessary IPA Interconnection facilities and Switchyard Upgrades required to render interconnection service for Interconnection Customer pursuant to the Interconnection Agreement and IPA's commissioning such facilities ready for service;
- (viii) Completion of construction of the Facility and the Interconnection Customer's Interconnection Facilities;
- (ix) Receipt of payment from Interconnection Customer for all Interconnection Facilities' costs related to the Interconnection Request, as invoiced by IPA;

(x) Notification from IPA to Interconnection Customer of the commencement of interconnection service.

(B) Customer's conditions precedent (only Customer shall have the right to waive the condition precedent set forth in this Paragraph VI(B)):

[any mutually agreeable conditions precedent in favor of Customer to be satisfied or waived]

VII. FOREITURE AND DAMAGES

A. If (i) all of the conditions precedent set forth in Paragraph VI of this Precedent Agreement have not been fully satisfied within two (2) years after the Anticipated Commencement of Service Date or (ii) Interconnection Customer otherwise fails to perform, in whole or in part, its material duties and obligations hereunder, then Interconnection Customer shall forfeit its Down Payment (along with any and all rights it may have had to those funds) and shall not contest such forfeiture; provided, however, that Interconnection Customer shall not be required to forfeit its Down Payment, if the IPA Coordinating Committee or IPA Board of Directors fails to approve the Interconnection Agreement. IPA shall utilize any forfeited Down Payment to offset the costs that IPA has incurred or will incur to expand interconnection service, including interconnection service to third parties, at the IPA Switchyard, thereby reducing interconnection connection costs for other interconnection customers.

B. NOTWITHSTANDING THE FOREGOING, THE PARTIES HERETO AGREE THAT NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY PUNITIVE, SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR BUSINESS INTERRUPTIONS) ARISING OUT OF OR IN ANY MANNER RELATED TO THIS PRECEDENT AGREEMENT, AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF OR THE SOLE, CONCURRENT OR CONTRIBUTORY NEGLIGENCE (WHETHER ACTIVE OR PASSIVE), STRICT LIABILITY (INCLUDING, WITHOUT LIMITATION, STRICT STATUTORY LIABILITY AND STRICT LIABILITY IN TORT) OR OTHER FAULT OF EITHER PARTY. THE IMMEDIATELY PRECEDING SENTENCE SPECIFICALLY PROTECTS EACH PARTY AGAINST SUCH PUNITIVE, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES EVEN IF WITH RESPECT TO THE NEGLIGENCE, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, STRICT LIABILITY OR OTHER FAULT OR RESPONSIBILITY OF SUCH PARTY; AND ALL RIGHTS TO RECOVER SUCH DAMAGES OR PROFITS ARE HEREBY WAIVED AND RELEASED.

VIII. TERMINATION AND SURVIVAL

This Precedent Agreement will terminate by its express terms on the later of (i) the date interconnection service commences or (ii) three (3) years after Anticipated Commencement of

Service Date, and thereafter the rights and obligations of IPA and Interconnection Customer related to the interconnection service contemplated herein shall be determined, if at all, pursuant to the terms and conditions of such Interconnection Agreement; provided, however, that this Precedent Agreement shall continue in effect after termination to the extent necessary (a) to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this Agreement; and (b) to permit each Party to have access to the lands of the other Party pursuant to this Agreement or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

IX NOTICE

Except as herein otherwise provided, any notice, request, demand, statement, or bill provided for in this Precedent Agreement, or any notice which either Party desires to give to the other, must be in writing and will be considered duly delivered when mailed by registered or certified mail, or overnight courier, to the other Party's post office address set forth below:

IPA: Intermountain Power Agency
Attention: General Manager
10653 S. River Front Parkway, Suite 120
South Jordan, Utah 84095

Operating Agent:

Customer: (Company Name)
(Address 1)
(Address 2)
[Attn: _____]
Telephone: (____) ____ - ____
Facsimile: (____) ____ - ____
Electronic Mail: _____

Either Party may designate additional or different addresses by written notice. Routine communications will be considered duly delivered when mailed by registered mail, certified mail, ordinary mail, overnight courier, or electronic mail.

X. MISCELLANEOUS

A. This Precedent Agreement does not alter in any way Interconnection Customer's position in the interconnection queue, nor does it modify the Interconnection Procedures or the studies performed (and costs incurred by Interconnection Customer) thereunder.

B. This Precedent Agreement may not be modified or amended unless the Parties execute written agreements to that effect.

C. Any entity that succeeds by purchase, merger, or consolidation of title to the properties, substantially as an entirety, of IPA or Interconnection Customer, will be entitled to the rights and will be subject to the obligations of its predecessor in title under this Precedent Agreement. Otherwise, neither Interconnection Customer nor IPA may assign any of its rights or obligations under this Precedent Agreement without the prior written consent of the other Party hereto.

D. Except as expressly provided for in this Precedent Agreement, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person not a Party hereto any rights, remedies or obligations under or by reason of this Precedent Agreement.

E. Each and every provision of this Precedent Agreement shall be considered as prepared through the joint efforts of the Parties and shall not be construed against either Party as a result of the preparation or drafting thereof. It is expressly agreed that no consideration shall be given or presumption made on the basis of who drafted this Precedent Agreement or any specific provision hereof.

F. The recitals and representations appearing first above are hereby incorporated in and made a part of this Precedent Agreement.

G. This Precedent Agreement shall be governed by, construed, interpreted, and performed in accordance with the laws of the State of Utah, without recourse to any laws governing the conflict of laws.

H. Interconnection Customer and IPA agree that execution of this Precedent Agreement and, if applicable, the Interconnection Agreement, does not assure transmission delivery service to or from the Facility or on the IPA transmission system.

IN WITNESS WHEREOF, the Parties hereto have caused this Precedent Agreement to be duly executed by their duly authorized officers as of the day and year first above written.

INERMOUNTAIN POWER AGENCY

[CUSTOMER]

By its Operating Agent

By: _____

By: _____

Title: _____

Title: _____

Exhibit A:
Interconnection Customer and Interconnection Request