

Solar Terms and Conditions

ZEN Energy Retail Pty Ltd (ABN 54 615 751 052)

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Solar Terms and Conditions

1. About this Contract

1.1 The Parties

This Solar Contract is between:

- (a) ZEN Energy (in this Solar Contract referred to as "we", "our" or "us"); and
- (b) the customer identified in the Contract Details of your Retail Contract (in this Solar Contract referred to as "you" or "your").

1.2 Definitions and interpretation

- (a) The terms used in this Solar Contract are defined in clause 13.1.
- (b) Where a term defined in clause 13.1 differs from the definition in the National Energy Retail Law or the Rules, the definition in the National Energy Retail Law or the Rules prevail.

1.3 Your Retail Contract and this Solar Contract

- (a) You have entered into this Solar Contract if:
 - (i) at the time you entered into your Retail Contract, you also signed up as part of the application process for the Retail Contract,; or
 - (ii) you have a current and existing Retail Contract with us and have signed up, to receiving the Solar Electricity Rebate in relation to Supplied Solar Electricity.
- (b) If there is any ambiguity, inconsistency or conflict between the terms of your Retail Contract, any of the documents comprising the Retail Contract and this Solar Contract, then, unless otherwise stated, this Solar Contract takes precedence.

1.4 Eligibility

- (a) This Solar Contract applies to you, and you are eligible to receive a Solar Electricity Rebate for Supplied Solar Electricity if:
 - (i) you are a Qualifying Customer;
 - (ii) the solar system located at your Premises is a Qualifying Solar System;
 - (iii) you are not are not participating in any Regulated Feed-in Scheme in relation to your Qualifying Solar System;
 - (iv) you have a Retail Contract with us for the Premises at which your Qualifying Solar System is installed;
 - (v) we receive confirmation from your Distributor that the Qualifying Solar System has been connected to the Distribution System in a manner that allows the Solar Electricity to be metered and supplied into the Distribution System;
 - (vi) you have metering equipment installed at the Premises that records the Solar Electricity generated by the Qualifying Solar System and supplied into the Distribution System (which metering equipment meets ours and the Distributor's reasonable requirements and the requirements of any Regulatory Requirements); and
 - (vii) you and the Qualifying Solar System meet all other Regulatory Requirements that apply from time to time.

2. Commencement and duration

2.1 When does this Solar Contract start?

- (a) This Solar Contract commences on the day that all of the following have occurred:
 - (i) all of the eligibility criteria set out in clause 1.4 are met;
 - (ii) the Distributor confirms with us that:
 - (A) the Qualifying Solar System has been connected to their Distribution System;
 - (B) the NMI for your premises has been assigned to the relevant network tariff code; and
 - (iii) you have provided us with your explicit informed consent to enter into this Solar Contract.

2.2 When does this Solar Contract End?

- (a) This Solar Contract will end when it is terminated in accordance with clause 10.

3. Solar Electricity and Solar Electricity Rebate

3.1 Sale and purchase of Solar Electricity

- (a) You agree to sell to us, and we agree to purchase from you, Solar Electricity on the terms and conditions of this Solar Contract.
- (b) To the extent required by the Regulatory Requirements, we will credit you the Solar Electricity Rebate per kilowatt hour for Supplied Solar Electricity in accordance with this Solar Contract.

3.2 Solar Electricity Rebate

- (a) During the Term of this Solar Contract, we will, in accordance with the terms and conditions of this Solar Contract, credit you the Solar Electricity Rebate against the charges payable by you under your Retail Contract.
- (b) Your Solar Electricity Rebate will be calculated in accordance with the following formula:

Solar Electricity Rebate = Solar Feed-in Tariff x Supplied Solar Electricity
- (c) If we have been unable to calculate your Supplied Solar Electricity for a relevant period based on a reading of your Meter, your Supplied Solar Electricity Supplied for that period will be zero, unless your Distributor estimates the generation in accordance with the Regulatory Requirements.
- (d) If the amount you owe us for a Billing Period under your Retail Contract is less than the amount of your Solar Electricity Rebate, the balance of the Solar Electricity Rebate will remain as a credit on your next bill (**Excess Solar Electricity Rebate**).
- (e) For the avoidance of doubt, no interest may be charged by you in relation to any Solar Electricity Rebate that you may have accumulated from time to time under the terms of this Solar Contract.
- (f) If at any time you wish us to review your account you may request us to do so and we will review it in accordance with the provisions of the Regulatory Requirements.
- (g) If at any time we have given you a Solar Electricity Rebate that:
 - (i) is lesser than we should have done under the terms of this Solar Contract, we will credit those amounts to your account; or
 - (ii) is more than we were obliged to under the terms of this Solar Contract, we may recover the over-credited amount and in doing so we will follow the procedures set out in your Retail Contract.

4. Metering

4.1 Installation and accuracy of data

4.2 You must install a Meter at the Premises that complies with all Regulatory Requirements and any reasonable requirements imposed by us or by your Distributor. Access to information and Meter

- (a) You agree to take whatever steps may be necessary to provide us with access to any information that is generated by your Meter.
- (b) You must allow us and our authorised representatives safe and unhindered access to your Premises for the purposes of (where relevant):
 - (i) reading, testing, maintaining, inspecting or altering any metering installation at the Premises; and
 - (ii) calculating or measuring Supplied Solar Electricity; and
 - (iii) checking the accuracy of metered consumption at the Premises; and
 - (iv) replacing meters.
- (c) You must not tamper with your Meter.
- (d) We will use our best endeavours to ensure that a Meter reading is carried out as frequently as is needed to prepare your bills, consistently with the metering rules and in any event at least once every 12 months.
- (e) We will not be in breach of clause 5.2(c) if we have been unable to comply because you have failed to provide us or our representative with safe, convenient and unhindered access to the Premises and to the Meter for the purposes set out in clause 5.2(b).

5. Operation of Qualifying Solar System

5.1 Retail Contract clauses

- (a) All of the terms under the Retail Contract that relate to the interruption, disruption, reduction or disconnection of the supply of electricity to you also apply to this Solar Contract.
- (b) You agree that the connection of your Qualifying Solar System, and your ability to supply us with Solar Electricity may be interrupted, discontinued or restricted for the same reasons set out in your Retail Contract.

5.2 Entitlement to Solar Electricity Rebate

- (a) You will not be entitled to any Solar Electricity Rebate or other credit, payment or compensation from us for any period during which you are unable to supply Solar Electricity to the Distribution System because the connection between your Qualifying Solar System and the Distribution System is interrupted, limited, restricted or disconnected.

5.3 Liability

- (a) We do not accept any responsibility for any risks or liabilities associated with the operation of your Qualifying Solar System including its control, use, maintenance or connection to the Distribution System.

6. Your bill

6.1 No separate bill

- (a) You will not receive a separate bill or statement as a result of entering into this Solar Contract.

- (b) Any Solar Electricity Rebates accumulated by you during the Term of this Solar Contract will be set off against the bill that you receive pursuant to your Retail Contract as set out in clause 3.2 of this Solar Contract.

6.2 Details that will be included in your bill

- (a) Your bill will clearly itemise:
 - (i) the amount of Solar Electricity fed into the Distribution System by your Qualifying Solar System during the relevant Billing Period;
 - (ii) the amount of Solar Electricity Rebate accumulated by you;
 - (iii) the amount (if any) of excess Solar Electricity Rebate remaining on your account, being Solar Electricity Rebate which are in excess of the charges payable by you on your account in respect of the Billing Period covered by that account; and
 - (iv) any charges that we have applied to your account, or other adjustments that we have made, in accordance with this Solar Contract.

7. GST

7.1 Solar Electricity Rebate does not include GST

- (a) Subject to clauses 8.2 and 8.3, the Solar Electricity Rebate does not include GST.

7.2 Payment of GST

- (a) Any consideration or amount payable under this Solar Contract including any non-monetary consideration, is inclusive of GST unless stated otherwise.
- (b) Subject to clause 8.1(c), if we become liable to pay GST in connection with this Solar Contract, you agree to:
 - (i) pay us in addition to any other amounts that pay be due to us under this Solar Contract or under the Retail Contract, an additional amount equal to the amount of that GST; and
 - (ii) you must pay such an amount to us within 14 days of being provided with a valid tax invoice by us.
- (c) If any GST payable in relation to a supply made under this Solar Contract varies from the additional amount that is paid by you under clause 8.1(b) so that a further amount of GST is payable in relation to the supply or a refund credit of GST is obtained in relation to the supply, then we will provide a corresponding refund or credit to, or will be entitled to receive a corresponding amount from you.
- (d) Subject to this clause 8.1, you are solely liable for payment of all taxes which may be incurred as a result of this Solar Contract and you agree to indemnify for any such liabilities that we may incur.

7.3 If you are a business customer

- (a) If you are a business customer you must supply us with a valid ABN in respect of this Solar Contract.
- (b) Unless you supply us with a valid ABN under clause 8.2(a), you warrant to us that your generation of electricity by your Qualifying Solar System is for private and domestic purposes and is not related in any way to any business purposes carried on by you or any other person.
- (c) You undertake to indemnify us for all loss, damage, cost and expense that may arise from any breach of the warranty set out in clause 8.2(b).

8. Your rights and obligations

8.1 You obligations

- (a) You must:
 - (i) obtain and maintain all necessary licences, permits, registrations, exemptions and/or approvals from all relevant authorities (including building and planning approvals) required for you to generate and sell Solar Electricity;
 - (ii) comply with all Regulatory Requirements;
 - (iii) supply us with the Solar Electricity in accordance with the requirements that may be specified by your Distributor from time to time (including in your network connection agreement with the Distributor);
 - (iv) ensure that any variations in the voltage and/or frequency of the Solar Electricity which you sell to us do not exceed the levels prescribed by the Regulatory Requirements; and
 - (v) ensure that you supply Solar Electricity at the point where the Distributor's Distribution System connects to the Premises.
- (b) You must not modify your Qualifying Solar System without first obtaining the written consent of the Distributor.
- (c) You must notify us as soon as is reasonably practicable about any changes in your contact details or other relevant circumstances including if you cease to meet any of the requirements in this clause 9.2.

8.2 Additional costs

- (a) You acknowledge that you may be required to pay the following costs to us as a result of entering into this Solar Contract:
 - (i) costs associated with the installation, maintenance or other technical support required by us or by your Distributor under this Solar Contract; and
 - (ii) any charges imposed on us by a third party (including our authorised representatives) as a result of the metering or other services relating to the meter.
- (b) If work needs to be undertaken that may lead to costs of the type described in clause 8.2(a) being incurred you may ask us to specify what those costs are before the work is undertaken.

9. Termination

9.1 Where your Retail Contract is Terminated

- (a) Subject to clause 9.1(b), if your Retail Contract is terminated by either party this Solar Contract will automatically terminate on the date that your Retail Contract terminates.
- (b) If your Retail Contract is replaced with another electricity retail contract between you and us, we may elect not to terminate this Solar Contract by notice to you before the existing Retail Contract is replaced with a new retail contract.
- (c) If we elect not to terminate this Solar Contract under clause 9.1(b), any reference in this Solar Contract to "Retail Contract" is deemed to be a reference to the replacement electricity retail contract.

9.2 Automatic termination

- (a) This Solar Contract automatically terminates if:
 - (i) you enter into another contract with us for the sale by you of Solar Electricity to us at your Premises (in which case this Solar Contract will automatically terminate on the day that our obligations under the other contract commence);
 - (ii) you cease to be a Qualifying Customer; or

- (iii) the generator ceases to be a Qualifying Solar System.

9.3 When can we terminate

- (a) We can terminate this Solar Contract if:
 - (i) you enter into a contract with another retailer for the sale by you of Solar Electricity (in which case this Feed-in Contract automatically ends on the date the obligations of the other retailer commence under that other contract);
 - (ii) you vacate your Premises (in which case this Solar Contract ends on the later of either the date you vacate your Premises, or the date that you notify us in writing that you have vacated your Premises);
 - (iii) under your Retail Contract, your Premises is disconnected and you no longer have any right to be reconnected (in which case this Solar Contract will end on disconnection, or if a right to reconnection exists, on expiry of that right);
 - (iv) you breach any of your obligations under the terms of this Solar Contract or Retail Contract and fail to remedy that breach within 10 Business Days of us giving you notice, specifying the breach and requiring it to be remedied (in which case this Solar Contract will end at the expiry of that 10 Business Day period);
 - (v) you cease to meet any of the eligibility requirements set out in clause 1.4; and
 - (vi) we are not required under Regulatory Requirements to publish an offer pursuant to which we will provide you with a Solar Electricity Rebate for Supplied Solar Electricity.

10. Force majeure

10.1 Effect of Force Majeure Event

If either party to this Solar Contract cannot meet an obligation under this Solar Contract because of an event outside the control of that party (**Force Majeure Event**):

- (a) the obligation, other than an obligation to pay money, is suspended to the extent it is affected by the Force Majeure Event for as long as the Force Majeure Event continues; and
- (b) the affected party must use its best endeavours to give the other party prompt notice of that fact including full particulars of the event, an estimate of its likely duration, the extent to which the affected party's obligations are affected and the steps being taken to remove, overcome or minimise those effects.

10.2 Obligation to overcome or minimise effect of Force Majeure Event

A party that claims a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of that event as soon as practicable.

10.3 Settlement of industrial disputes

Nothing in this clause requires a party to settle an industrial dispute that constitutes a Force Majeure Event in any manner other than the manner preferred by that party.

10.4 Section 120 of the National Electricity Law

Nothing in this clause 10 varies or excludes the operation of section 120 of the National Electricity Law.

11. General

11.1 Assignment

- (a) You must not novate this Solar Contract, or assign, transfer or deal with the rights created under this Solar Contract, without our written consent.
- (b) We may novate this Solar Contract, or assign or transfer our rights and obligations under this Solar Contract to any person (**assignee**), without your consent if:
 - (i) the assignee takes a novation, assignment or transfer of our rights and obligations under the Retail Contract; or
 - (ii) the novation, assignment or transfer forms part of the transfer to a third party of all or substantially all of our retail business.

11.2 Notices

- (a) The terms of the Retail Contract that relate to notices, consents, documents or other communications also apply to this Solar Contract, unless this Solar Contract provides to the contrary.

11.3 Governing Law

- (a) This Solar Contract is governed by the laws of South Australia and each of us submit to the non-exclusive jurisdiction of the courts of South Australia.

11.4 Waiver

- (a) Any failure by us to exercise any of our rights or powers under this Solar Contract is not a waiver of those rights or powers unless we agree otherwise in writing.

11.5 Variations

- (a) Subject to anything to the contrary in this Solar Contract:
 - (i) we may vary this Solar Contract by notice in writing to you (subject to any requirements for variations set out in the Regulatory Requirements); or
 - (ii) the parties may vary this Solar Contract by agreement in writing.
- (b) By entering into this Solar Contract you provide us with explicit informed consent to any such variations.

11.6 Severance

- (a) If the whole or any part of a provision of this Solar Contract is void, unenforceable or illegal that provision will, so far as is possible, be severable. The remainder of this Solar Contract will continue to operate with full force and effect and the validity and enforceability of the remainder will be unaffected.

11.7 Entire Agreement

- (a) This Solar Contract sets out the entirety of the agreement between us for the supply of Solar Electricity by you to us and you acknowledge that you have not relied on any representation, inducement, warranty or promise which is not contained in this document.
- (b) You acknowledge that the Retail Contract deals exclusively with the sale of electricity by us to you and that the Retail Contract is separate from this Solar Contract.
- (c) If and to the extent that any matter is required to form part of this Solar Contract that is not included expressly in these terms and conditions the relevant provisions will be implied into this Solar Contract as if they were expressly included.

11.8 Changes in the Laws

- (a) It is acknowledged that there may be changes in the laws that govern the sale and supply of electricity (including Solar Electricity) which may affect the operation of this Solar Contract.

- (b) It is agreed that if in our reasonable view the changes to the laws materially alter the rights that subsist under this Solar Contract we may amend this Solar Contract by notice to you to take those changes into account and you are deemed to agree with those amendments.

12. Definitions and interpretation

12.1 Defined terms

In this Solar Contract:

Qualifying Customer means a small customer as defined in the National Energy Retail Law.

Qualifying Solar System has the meaning given to the term 'qualifying generator' in section 36AC(1) of the *Electricity Act 1996 (SA)*.

Regulated Feed-In Scheme means:

- (a) the SA solar feed-in scheme which closed to new entrants on or before 30 September 2013 and for the avoidance of doubt includes all customer groups which have not otherwise expired at the date of this Solar Contract (including customer groups 1, 2 and 3); and
- (b) and any other government feed-in scheme pursuant to which a customer receives a payment or credit of some kind from a Distributor or retailer in relation to electricity generated and sent out by the Qualifying Solar System.

Regulatory Requirements means any Commonwealth, State or local government legislation including Acts of Parliament, regulations, rules (including the Rules), by-laws or other subordinate legislation, judicial, administrative or regulatory decrees or orders, or any mandatory approvals and guidelines, including industry standards or administrative interpretations of them, as may be in force and as amended from time to time.

Retail Contract means an agreement between you and us for the sale of electricity by us to you, for the Premises.

Solar Electricity means the electricity generated by your Qualifying Solar System.

Solar Electricity Rebate means the rebate calculated in accordance with clause 3.2(b).

Solar Feed-in Tariff means the feed in tariff set out in your Energy Plan.

Supplied Solar Electricity means the Solar Electricity that is generated from your Qualifying Solar System and fed back into the Distribution System (i.e. Solar Electricity supplied in excess of that being used by you at the Premises).

Term means the period from the date this Solar Contract commences in accordance with clause 2.1 until the date this Solar Contract is terminated in accordance with clause 9.

12.2 Retail Contract definitions

Capitalised terms used in this Solar Contract that are not defined in clause 12.1 but are defined in your Retail Contract, have the meaning given in your Retail Contract.

12.3 Interpretation

In this Solar Contract, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph or schedule is to a clause or paragraph of, or schedule to, this *contract*, and a reference to this *contract* includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to a party is to a party to this *contract*, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (g) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (i) headings are for ease of reference only and do not affect interpretation.