



Darebin Solar Saver Program

Commercial (Non-Residential) Owner Agreement

[Name of owner]

Address line 1

Address line 2

Key details

Commencement Date	1 July 2019
Expiry date	10 years after issuing of first Special Charge notice OR when cost is paid out in full.
Cost of the Solar Energy System	[MERGE quote amount (ex GST, post STC)] See also Schedule 2.
Amount payable by the Owner in each quarterly rates notice from September 2019	An amount equal to 1/40 th of the total cost, being approximately: \$ (iMERGE amount) per quarter (for forty quarterly payments)
This includes:	The supply and installation of the solar system, and any repair or replacement covered by the warranty during the warranty period.
This does not include:	Any connection fee charged by your (or your Tenant's) energy retailer or distributor or unforeseeable associated electrical works; any general maintenance, service calls or repair or replacement not covered by the warranty.
For any queries:	Please contact Darebin City Council 03 8470 8888 www.darebin.vic.gov.au solar@darebin.vic.gov.au PO Box 91, Preston VIC 3072
Option to withdraw from agreement:	This agreement is entirely voluntary. The Owner can withdraw their agreement, without penalty, any time up to a week before their scheduled installation. The Owner can also withdraw their agreement any time up to the day before their installation but may incur a cancellation fee if less than a week's notice is given.

BACKGROUND

This agreement records the agreed terms between Council and the Owner regarding the supply and installation of a solar energy system under the Program and repayment of the system.

IT IS AGREED AS FOLLOWS

1) Term of Agreement

This Agreement commences on the Commencement Date and, unless terminated in accordance with this Agreement, will continue until the expiry date on page 1, or the final payment has been received by Council.

2) Pre-Conditions

- a) The provision of a Solar Energy System to the Owner under this Agreement is conditional on the following taking place and remaining in place:
- i) Council entering into and maintaining a contract with a company to supply and install the Solar Energy System to the Owner as part of the Program;
 - ii) Council declaring the Scheme to recover the costs of the Program and the Scheme remaining valid;
 - iii) Council granting a permit to the Owner, if required for heritage reasons as set out in the Darebin Planning Scheme;
 - iv) If the property is tenanted, the Owner securing the permission of the Tenant to enter the Owner's property for the purposes of installation (see also Clause 5 and Schedule 1);
 - v) The Owner paying any other outstanding Rates or Charges owed to Council;
 - vi) The Owner not exercising the option to withdraw.
- b) If the pre-conditions in clause a) have not been satisfied by 30 June 2020 this Agreement immediately ends and each Party is released from its obligations under this Agreement.

3) Payment for Solar Energy System

- a) The Cost of the Solar Energy System is the total amount set out under Key Details on page 1 and itemised in Schedule 2. This amount purchases the supply and installation of the Solar Energy System and any required repair or replacement covered by the warranty during the warranty period, but does not cover grid connection fees, any electrical works required by the electricity distributor during grid connection, general maintenance, service calls or repair or replacement outside the warranty.
- b) The Cost of the Solar Energy System under clause a) may be adjusted by Council during the term of this Agreement if, for a reason beyond the control of Council or the Contractor, further costs are required to be incurred in supplying or installing the Solar Energy System.

- c) Council envisages that any adjustment to the Cost of the Solar Energy System under clause b) will only arise where the Owner agrees to the change and where:
 - i) there is a change to legislation applicable to, or regulation of, the installation of the Solar Energy System (eg changes to Renewable Energy Certificates); or
 - ii) the installation of the Solar Energy System originally quoted for changes as a result of building works undertaken at the Owner's property or a request to change the location or design of the Solar Energy System by the Owner (which could also alternatively be charged separately to the Special Charge as a once-off invoice. This invoice would NOT be exclusive of GST because it would fall outside the Special Charge arrangement).
- d) Any adjustment under clause b) that is more than 10% above the Cost of the Solar Energy System as on Page 1 will be made by way of a variation to the Scheme, in accordance with section 166 of the *Local Government Act 1989*. That is, where a variation would result in a change to the Owner's liability under the Scheme of 10% or more, the Owner will have an opportunity to make submissions to Council in respect of it and, if the Solar Energy System has not already been installed, withdraw from the Scheme.
- e) Payment for the Cost of the Solar Energy System will by default be apportioned in quarterly instalments over a 10-year period, commencing after the installation of the solar system. The amount payable by the Owner per quarter is set out in Key Details (page 1).
- f) The Owner may alternatively choose to pay the Cost of the Solar Energy System sooner by arrangement with Council's Rates Team.
- g) Commencing after the installation of the solar system, the Owner will receive a Special Charge notice each quarter setting out their liability under the Scheme for the property at which the Solar Energy System is installed, until the Owner's liability under the Scheme is discharged in full.
- h) Unless otherwise agreed between the Parties, all payments are due at the date set out in each Special Charge notice. In the event that payment has not been made by the due date, Penalty Interest may be payable upon any outstanding amounts, in accordance with the *Local Government Act 1989* and this Agreement.
- i) Any delay or adjustment to the delivery date for the Solar Energy System within the installation period (up to 30 June 2020) or adjustment to the Cost of the Solar Energy System under clause b) does not entitle the Owner to delay or withhold payment under this Agreement.

4) Council's Obligations

Council's obligations under this Agreement include the obligation to make all reasonable efforts to:

- a) enter into contractual arrangements with a licensed electrical contractor, who has experience and expertise in the Solar Energy industry and who is of good repute, to supply and install the Solar Energy System;
- b) ensure that any Contractor engaged under clause a) provides the supply and installation of a Solar Energy System to the Owner within a reasonable time of this Agreement being entered into.

5) The Owner's Obligations

- a) The Owner must pay to Council the Cost of the Solar Energy System in accordance with clause 3).
- b) The Owner must arrange for the Contractor and its agents to gain access to the Owner's property for the purposes of conducting site inspections, installing the Solar Energy System and to carry out any required repairs or replacements. If the property is let, this includes obtaining the permission of the Tenant in writing, using the form in Schedule 1.
- c) The Owner must ensure that those parts of their property in which works are being undertaken by the Contractor are safe to access, and free from asbestos or other toxic substances, prior to the Contractor or its agents accessing the Owner's property. If the property is let, this includes arranging for a Tenant to do the same, to the extent it is a Tenant responsibility under the Lease, subject to the Retail Leases Act.
- d) If the Owner's property is let to a Tenant under a Lease subject to the Retail Leases Act, the Owner must comply with the Retail Leases Act in relation the installation or operation of the Solar Energy System at the Owner's property.
- e) If the property is let, the Owner will procure the Tenant's:
 - i) authorisation for the Contractor to submit an application to their electricity provider to connect a renewable energy system to the electricity provider's electrical distribution network; and
 - ii) agreement to take all reasonable action required by the Contractor, including signing any relevant documents, and paying any associated fees, in order for that connection to take place. The Tenant is responsible for any metering or other fees charged by their electricity provider and such charges do not form part of this Agreement.
- f) The Owner must not, and must ensure that any Tenant does not, intentionally damage, sell, trade or otherwise dispose of any part of the Solar Energy System during the term of this Agreement.
- g) The Owner must, and must ensure that any Tenant does, comply with any warranties, manufacturer's instructions and user manuals relating to the Solar Energy System and acknowledges that any failure to do so may void those warranties.
- h) Neither the Owner nor any Tenant has any entitlement to claim any Renewable Energy Certificates in relation to the Solar Energy System provided under this Agreement.
- i) The Owner acknowledges that this Agreement is independent of and does not have the effect of varying the terms of any Lease between the Owner and the Tenant. The Owner acknowledges that Council is not liable in connection with the Owner and the Tenant's compliance with the Lease, any disputes arising under the Lease or any variation made to the Lease. The Owner acknowledges that it has been advised to seek independent advice regarding the Lease.

6) Assignment of Warranties

- a) The Contractor has agreed that all warranties relevant to the Solar Energy Systems will be issued in respect of, and remain with, the relevant properties at which the Solar Energy Systems are installed.

- b) If the Owner or a Tenant has any concerns, queries or requests for a service call, repair or replacement of the Solar Energy System, the Owner or Tenant must contact the Contractor who supplied and installed the Solar Energy System. Contact details for the Contractor will be supplied to the Owner and Tenant prior to the installation of the Solar Energy System.
- c) Council takes no responsibility for any costs or charges incurred by the Owner or any Tenant in contacting the Contractor under this clause 5)i). Such costs and charges are a matter to be agreed by the Owner and any Tenant, and the Contractor.

7) No Guarantee of Savings

- a) While typically a Solar Energy System will result in reduced electricity costs for the Owner and any Tenant, no guarantee is made by Council that the Owner or any Tenant will save money on their electricity bills as a result of the provision of the Solar Energy System under this Agreement.
- b) Neither Council, nor the Contractor, is responsible for any inaccuracies or losses caused to the Owner or any Tenant by changes to feed in tariffs, electricity prices or government schemes.

8) No Liability

- a) To the fullest extent permitted by law, Council is not liable for the ongoing maintenance, repair or replacement of the Solar Energy System, including but not limited to:
 - i) the replacement of the goods or the supply of equivalent goods;
 - ii) the repair of such goods;
 - iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - iv) the payment of the cost of having the goods repaired.
- b) The Owner agrees to the installation and use of the Solar Energy System under this Agreement at their own risk and releases Council from all claims resulting from any damage, loss, death or injury in connection with the installation and use of the Solar Energy System except to the extent that Council is negligent.
- c) The Owner must indemnify and hold harmless Council against all claims resulting from any damage, loss, death or injury in connection with the installation and use of the Solar Energy System except to the extent that Council is negligent.
- d) Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the parties and survives termination of this Agreement.
- e) This clause 8) does not limit in any way the Owner's ability to make warranty claims directly to the Contractor.

9) Ownership of Solar Energy System

- a) Ownership of the Solar Energy System remains fully vested in Council during the term of the Agreement, unless the Solar Energy System is otherwise paid for in full

in accordance with clause 3 **Error! Reference source not found.**, at which time the ownership of the Solar Energy System vests in the Owner.

- b) Once all payments payable under this Agreement have been made by the Owner in accordance with clause 3, the full ownership of the Solar Energy System will pass from Council to the Owner.

10) Termination

Without limiting the generality of any other clause, Council may terminate this Agreement by notice in writing if the Owner:

- a) breaches any essential terms of this Agreement and such breach is not remedied within 60 days of written notice by Council;
- b) fails to obtain the permission of the Tenant (if the property is let) for the Contractor to enter the Owner's property to install the Solar Energy System; or
- c) otherwise fails to observe their obligations under the Retail Leases Act, if it applies to any Lease between the Owner and any Tenant, to the extent that those obligations are relevant to this Agreement.

11) No Fettering of Council's Powers

It is acknowledged and agreed that this Agreement does not fetter or restrict Council's powers or discretions in relation to any powers or obligations it has under any Act, regulation or local law that may apply to the Scheme or any other aspect of this Agreement.

12) Entire Agreement

This Agreement constitutes the entire agreement between the parties. Any prior arrangements, agreements, representations or undertakings related to this solar installation are superseded.

13) Joint and Several Liability

If the Owner consists of more than one person, this Agreement binds them jointly and each of them severally.

14) Severability

If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, this Agreement will remain otherwise in full force apart from such provision which will be considered to be deleted.

15) Governing Law

This Agreement will be governed by and construed according to the law of Victoria.

16) Disputes

- a) Any grievances or concerns relating to the Solar Energy System must be conveyed to the Contractor, in accordance with clause 6)b).
- b) If any dispute arises between the Owner and Council regarding this Agreement, the Parties must at first instance endeavour to resolve it by discussion and agreement.

- c) If any dispute arises between the Owner and a Tenant regarding this Agreement, it is the responsibility of the Owner to resolve the dispute. Such a dispute will not affect the Owner's obligations under this Agreement and Council will have no involvement in such a dispute.

17) Definitions

Contractor means the licensed electrical contractor, whether being a person or entity, engaged by Council to supply and install Solar Energy Systems under the Program.

Owner means the person or persons named in the Agreement as being the owner of the property at which a Solar Energy System will be installed.

Lease means a lease, sub-lease, or an agreement for a lease or sub-lease in respect of all or part of the Owner's property, whether or not in writing.

Party means either Council or the Owner as the context dictates.

Penalty Interest means interest at the rate of 10 per cent per annum, or such other rate as may be fixed by section 2 of the *Penalty Interest Rates Act 1983* from time to time.

Program means the "Solar Saver Program" of Council.

Renewable Energy Certificate has the same meaning as in the *Renewable Energy (Electricity) Act 2000* (Cth) and includes any other certificate, right or entitlement of a similar nature which arises under Victorian or Commonwealth legislation.

Retail Leases Act means the *Retail Leases Act 2003* (Vic).

Scheme means the Special Rate Scheme to be declared by Council, under the *Local Government Act 1989*, to recoup the costs of the Solar Energy Systems provided as part of the Program.

Solar Energy System means the system described at **Error! Reference source not found.** Schedule 2 and includes the solar panels and any associated infrastructure and materials provided by the Contractor for the proper functioning of the solar panels to produce electricity from solar power, but does not include any infrastructure or services provided by third parties (such as electricity distributors or electricity retailers).

Tenant means each tenant, sub-tenant or other person entitled to occupy all or part of the Owner's property under a Lease.

18) SIGNED as an agreement between:

	Owner 1: _____
DATE: SIGNED for and on behalf of Darebin City Council ACN 75 815 980 522 by Sally MacAdams Coordinator Solar Saver Darebin City Council	Owner 2 (if applicable): _____ DATE: SIGNED by [Ratepayer name (s)]

Summary of Key details – see front page for full Key Details and Schedule 2 for a full breakdown of costs

Cost of the Solar Energy System

[MERGE quote amount (ex GST, post STC)]

See breakdown provided at Schedule 2.

Amount payable by the Owner in each quarterly rates notice from September 2019

An amount equal to 1/40th of the total cost, being approximately:

\$(iMERGE amount) per quarter (for forty quarterly payments)

This includes:

The supply and installation of the solar system, and any repair or replacement covered by the warranty during the warranty period.

This does not include:

Any connection fee charged by your energy retailer or distributor or unforeseeable associated electrical works; any general maintenance, service calls or repair or replacement not covered by the warranty.

Option to withdraw from agreement:

This agreement is entirely voluntary. The Owner can withdraw their agreement, without penalty, any time up to a week before their scheduled installation. The owner can also withdraw their agreement any time up to the day before their installation but may incur a cancellation fee if less than a week's notice is given.

NOTE: IF YOU ARE SCANNING THIS AGREEMENT TO RETURN TO COUNCIL PLEASE SCAN THE ENTIRE DOCUMENT INCLUDING SCHEDULE 2 (THE QUOTE) AND SCHEDULE 1 IF APPLICABLE.

Schedule 1

[NOTE: Schedule 1 is applicable ONLY if the property is tenanted. Owner-occupiers do not need to complete this form.]

Tenant's permission for Contractor to access Owner's property

I,

[Tenant's full name]

a Tenant to whom the premises
at.....

«Installs.Install street number and name» «Installs.Install street type»

«Installs.Install Suburb VIC Postcode»

are let under a Lease, agree to allow the contractor (and its agents) responsible for installing a solar panel system at the Owner's property to access the property for the purposes of conducting site inspections, installing the solar energy system and to carry out any required repairs, maintenance or replacements.

The Tenant authorises the Contractor to submit an application to their electricity provider to connect a renewable energy system to the electricity provider's electrical distribution network and the Tenant must take all reasonable action required by the Contractor, including signing any relevant documents, and paying metering or other fees charged by their electricity provider in order for that connection to take place.

SIGNED by:

.....
Signature

Date:

.....
Full Name

Schedule 2: Quotation for solar power system
