

# APPENDIX A

Date / /2014



## **City of Darebin Solar \$aver Program Householder Agreement**

**DAREBIN CITY COUNCIL**

and

**THE HOUSEHOLDER NAMED IN THE AGREEMENT**

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# City of Darebin Solar Saver Program Householder Agreement

DATE        /        /2014

## BETWEEN

**Darebin City Council ACN 75 815 980 522**  
of 274 Gower St, Preston, Victoria 3072, Australia

(Council)

and

.....[insert name/s]

of .....[insert address]

(Householder)

## BACKGROUND

- A. Council has developed the "Solar Saver Program" (**Program**), whereby certain residents of the City of Darebin may elect to have a solar energy system installed at their residential property by a contractor engaged by Council.
- B. Council intends to pay for the solar energy system to be installed and recover this cost through a special rate scheme yet to be declared by Council. The delivery of the Program is conditional upon the special rate scheme going ahead and will not proceed if the special rate scheme is not declared, or is rendered by a court or tribunal to be legally invalid.
- C. A separate agreement will be entered into between Council and the contractor engaged to supply and install the solar energy systems under the Program.
- D. This agreement records the agreed terms between Council and the Householder regarding the supply and installation of a solar energy system under the Program.

IT IS AGREED AS FOLLOWS

### 1. Term of Agreement

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This Agreement shall commence on the Commencement Date and, unless terminated in accordance with this Agreement, shall continue until 30 June 2026.

### 2. Pre-Conditions

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- 2.1 The provision of a Solar Energy System to the Householder under this Agreement is conditional upon and subject to:
  - 2.1.1 Council entering into a contract with a person or body to supply and install the Solar Energy System to the Householder as part of the Program; and
  - 2.1.2 Council declaring the Scheme to recover the costs of the Program.
- 2.2 No Solar Energy System will be provided under this Agreement until the pre-conditions in clause 2.1.1 - 2.1.2 have been satisfied.
- 2.3 If the conditions in clause 2.1.1 - 2.1.2 have not been satisfied by 28 November 2014, in the absence of agreement to the contrary between the parties, this Agreement immediately ends

and each Party is released from their obligations under this Agreement and no party will have any further liability, responsibility or obligation to the other.

### **3. Declaration of Invalidity of Scheme**

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In the event that, during the term of this Agreement, a court or tribunal of Victoria declares the Scheme to be invalid, or determines that the Householder is not bound by the Scheme, the following will apply:

- 3.1 if the Solar Energy System has not yet been supplied and installed at the Householder's property, this Agreement will terminate immediately, each Party is released from their obligations under this Agreement and no party will have any further liability, responsibility or obligation to the other; or
- 3.2 if the Solar Energy System has already been supplied and installed at the Householder's property, the Householder may elect to:
  - 3.2.1 allow the Solar Energy System to be removed from the Householder's premises and returned to Council; or
  - 3.2.2 keep the Solar Energy System provided and pay to Council, in a lump sum or otherwise as agreed between the Parties, the outstanding amount for the Cost of the Solar Energy System, within 60 days of receiving written notice from Council that the Scheme will no longer apply to the Householder.

### **4. Payment for Solar Energy System**

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- 4.1 The Cost of the Solar Energy System is the total amount set out in Item 3 of the Summary Schedule and itemised in Schedule 1. 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, as set out in Schedule 2, but does not cover general maintenance, service calls or repair or replacement outside the warranty.
- 4.2 The Cost of the Solar Energy System under clause 4.1 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.
- 4.3 Council envisages that any adjustment to the Cost of the Solar Energy System under clause 4.2 will only arise where:
  - 4.3.1 there is a change to legislation applicable to, or regulation of, the installation of the Solar Energy System (eg changes to Small-scale Technology Certificates); or
  - 4.3.2 the installation of the Solar Energy System originally quoted for changes as a result of building works undertaken at the Householder's property or a request to change the location of the Solar Energy System.
- 4.4 Any adjustment under clause 4.2 will be made by way of a variation to the Scheme, in accordance with section 166 of the *Local Government Act* 1989. Where a variation would result in a change to the Householder's liability under the Scheme of 10% or more, the Householder will have an opportunity to make submissions to Council in respect of it and withdraw from the Scheme.

- 4.5 Payment for the Cost of the Solar Energy System is to be by equal instalments apportioned over a 10-year period, commencing from July 2015. The amount payable by the Householder for each quarterly payment is set out at Item 4 of the Summary Schedule.
- 4.6 Commencing July 2015, the Householder will receive a rates notice each quarter setting out their liability under the Scheme for the property at which the Solar Energy System is installed, until their liability under the Scheme is discharged in full.
- 4.7 Unless otherwise agreed between the Parties, all payments are due at the date set out in each rates notice. In the event that payment has not been made by the due date, Penalty Interest is payable upon any outstanding amounts, in accordance with the *Local Government Act 1989* and this Agreement.
- 4.8 Any delay or adjustment to the delivery date for the Solar Energy System or adjustment to the Cost of the Solar Energy System under clause 4.2 does not entitle the Householder to delay or withhold payment under this Agreement.
- 4.9 The Cost of the Solar Energy System will not be adjusted after installation has occurred.

## **5. Council's Obligations**

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

- 5.1 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;
- 5.2 declare the Scheme and collect payments from the Householder in accordance with clause 4;
- 5.3 ensure that any Contractor engaged under clause 5.1 provides the supply and installation of a Solar Energy System to the Householder within a reasonable time of this Agreement being entered into; and
- 5.4 assign all warranties attaching to the Solar Energy System to the Householder in accordance with clause 7.

## **6. The Householder's Obligations**

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- 6.1 The Householder must pay to Council the Cost of the Solar Energy System in accordance with clause 4.
- 6.2 The Householder must allow the Contractor and its agents access to their property for the purposes of conducting site inspections, installing the Solar Energy System and to carry out any required repairs or replacements in accordance with Schedule 2.
- 6.3 The Householder 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 Householder's property.
- 6.4 The Householder 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 Householder must take all reasonable action required by the Contractor, including signing any relevant documents, in order for that connection to take place.

- 6.5 The Householder is responsible for any metering or other fees charged by their electricity provider and such charges do not form part of this Agreement.
- 6.6 The Householder must not intentionally damage, sell, trade or otherwise dispose of any part of the Solar Energy System during the term of this Agreement.
- 6.7 The Householder must 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.
- 6.8 The Householder does not have any entitlement to claim, create or assign any Small-scale Technology Certificates in relation to the Solar Energy System provided under this Agreement.

## **7. Assignment of Warranties**

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- 7.1 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, meaning that it should not be necessary to assign the warranties.
- 7.2 If the Householder has any concerns, queries or requests for a service call, repair or replacement of the Solar Energy System, the Householder must contact the Contractor who supplied and installed the Solar Energy System. Contact details for the Contractor will be supplied to the Householder prior to the installation of the Solar Energy System.

## **8. No Guarantee of Savings**

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- 8.1 While it is reasonably expected that the operation of the Solar Energy System will result in reduced electricity costs for the Householder, no guarantee is made by Council that the Householder will save money on their electricity bills as a result of the provision of the Solar Energy System under this Agreement.
- 8.2 Neither Council, nor the Contractor, is responsible for any inaccuracies or losses caused to the Householder by changes to feed in tariffs, electricity prices or government schemes.

## **9. No Liability**

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- 9.1 To the fullest extent permitted by law, while Council will take all commercially reasonable care in arranging for the provision of the Solar Energy System under the Agreement, Council shall not be liable in respect of any loss or damage (including consequential loss or damage), however caused, which may be suffered or incurred or which may arise directly or indirectly in respect of the installation or operation of the Solar Energy System.
- 9.2 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:
  - 9.2.1 the replacement of the goods or the supply of equivalent goods;
  - 9.2.2 the repair of such goods;

9.2.3 the payment of the cost of replacing the goods or of acquiring equivalent goods; or

9.2.4 the payment of the cost of having the goods repaired.

## **10. Ownership of Solar Energy System**

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10.1 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 3.1.2, at which time the ownership of the Solar Energy System vests in the Householder.

10.2 Once all payments payable under this Agreement have been made by the Householder in accordance with clause 4, the full ownership of the Solar Energy System will pass from Council to the Householder.

## **11. Release and Indemnity**

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11.1 The Householder 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.

11.2 The Householder 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.

## **12. Termination**

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12.1 Without limiting the generality of any other clause, Council may terminate this Agreement by notice in writing if the Householder breaches any essential terms of this Agreement and such breach is not remedied within 60 days of written notice by Council.

12.2 If notice of termination is given to the Householder pursuant to clause 12.1, Council may, in addition to terminating this Agreement:

12.2.1 repossess the Solar Energy System;

12.2.2 retain any moneys already paid;

12.2.3 charge a reasonable sum for any work performed in disconnecting and removing the Solar Energy System;

12.2.4 be regarded as discharged from any further obligations under this Agreement; and

12.2.5 pursue any additional or alternative remedies provided by law.

## **13. No Fettering of Council's Powers**

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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.

**14. Entire Agreement**

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This Agreement constitutes the entire agreement between the parties. Any prior arrangements, agreements, representations or undertakings are superseded.

**15. Joint and Several Liability**

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

**16. Survival of Indemnities**

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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.

**17. Severability**

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

**18. Governing Law**

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

**19. Disputes**

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**19.1 Householder to contact Contractor regarding Solar Energy System**

Any grievances or concerns relating to the Solar Energy System must be conveyed to the Contractor, in accordance with clause 7.2.

**19.2 Other disputes arising under this Agreement**

If any dispute arises between the Householder and Council regarding this Agreement, the Parties must at first instance endeavour to resolve it by discussion and agreement.

**20. Definitions**

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In this Agreement, unless the contrary intention appears:

**Agreement** means this agreement and includes the Schedules and any Annexures.

**Commencement Date** means the date on which this Agreement commences as specified in the Summary Schedule.

**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.

**Cost** means the amounts payable under this Agreement as outlined in Schedule 1, which may be amended from time to time in the manner described in this Agreement.

**Council** means the Darebin City Council.

**Householder** means the person or persons named in the Agreement as being the resident or residents of the property at which a Solar Energy System will be installed.



**Party** means either Council or the Householder as the context dictates.

**Payment Schedule** means the arrangements for payment by the Householder to Council, as set out in clause 4.

**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 \$aver Program" of Council.

**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-1. 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).

**Small-scale Technology 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;

**Term** means the term of this Agreement as set out in clause 1.

**SIGNED** as an agreement

**SIGNED** for and on behalf of **Darebin City Council ACN 75 815 980 522** in the presence of: ) )  
) )  
) ) .....  
) Name:  
Title:  
Full Name:.....  
..... Officer Title:.....  
Witness

**SIGNED** by the Householder/s named in this agreement in the presence of: )  
)  
) .....  
Full Name:.....  
..... )  
Witness )  
) .....  
Full Name:.....

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## Summary Schedule

1. **Commencement Date** / / 2014
2. **Expiry date** 30 June 2026
3. **Cost of the Solar Energy System** [insert amount]  
See breakdown provided at  
Schedule 1
4. **Amount payable by the Householder in each quarterly  
rates notice from July 2015** An amount equal to 1/40<sup>th</sup> of  
the total cost, being:  
\$ (insert amount) per quarter

# Schedule 1 Solar Energy System Details and Cost

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## Customer Contact

Reference #  
Name  
Phone  
Email

## Site Details

Visit Date  
Site Address  
Roof Type  
Height  
Orientation  
Notes

## System Specification

System Size  
Panels  
Inverter  
Mounting  
STC Estimate

## Item Cost

Item	Description	Cost
System		
Tilt Frame		
Tile Mounting		
Height		
Other		
<b>TOTAL</b>		
GST is not applicable		

## Conditions

The Household is provided a 10 day cooling off period from signing the agreement.

The Contractor reserves the right to contact the Householder to re-issue this Schedule, within 7 business days receipt of your signed Household Agreement to adjust pricing or details where quality assurance matters have been identified.

# Schedule 2 Warranty and Supplier Terms and Conditions

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See attached

**Energy Matters Terms and Conditions**

**System Component Warranties**