

Electricity Industry Act 2000

COUNTRY ENERGY (ABN 37 428 185 226)

Pricing and Terms and Conditions Relating to the Purchase of
Small Renewable Generation Electricity

Pursuant to section 40G of the **Electricity Industry Act 2000**, Country Energy, ABN 37 428 185 226, hereby publishes this offer comprising the prices at, and the terms and conditions on, which Country Energy will purchase small renewable energy generation electricity from a relevant generator. This offer is open to be accepted by eligible suppliers in accordance with the terms and conditions set out in Country Energy's agreement to purchase small renewable generation electricity, which is available upon request from Country Energy either by phone (13 23 56) or by accessing our internet site at www.countryenergy.com.au

Country Energy pricing arrangements are contained in section 7 of the contract. Prices are subject to change and variation – please contact Country Energy for up-to-date prices.

The relevant pricing, and terms and conditions are effective in accordance with section 40H of the **Electricity Industry Act 2000**.

**Purchase Agreement for Electricity Generated
by Small Generation Units
for Market Contract Customers –
Victoria**

Dated

2008

PARTIES

COUNTRY ENERGY
ABN 37 428 185 226

[Insert name of Party]
ABN []

Parties **Country Energy** ABN 37 428 185 226
of PO box 718, Queanbeyan, NSW, 2620
(**Country Energy**)

[Insert Name of Party] [Insert ABN]
of [Insert address]
(**Customer**)

1. Introduction

- A. The Customer is currently supplied electricity by Country Energy under the Customer Supply Contract.
- B. The Customer's Small Generation Unit is capable of exporting electricity to the Network.
- C. The Customer has agreed to supply and Country Energy has agreed to purchase the Export Electricity generated by the Small Generation Unit on the terms and conditions set out in this Agreement. Renewable Energy Certificates relevant to this Agreement are not purchased under this Agreement.

2. Definitions

2.1 Incorporated definitions

Unless the context clearly indicated otherwise or the relevant word or expression is defined in this Agreement, a word or expression defined in either the:

- (1) Customer Supply Contract; or
- (2) the Energy Retail Code,

has the same meaning in this Agreement.

2.2 In this Agreement, the following definitions apply:

- (1) **Agreement** means this document, including any schedule or annexure to it.
- (2) **Commencement Date** means the date set out in Item 2 of Schedule 1.
- (3) **Customer Supply Contract** means the customer supply contract between the parties for the supply of electricity to the Premises.
- (4) **Dispute** means a dispute arising out of or relating to this Agreement, including without limitation, a dispute about the breach, termination, validity or subject matter of this Agreement, or a claim in equity or in tort relating to the performance or non-performance of this Agreement.

- (5) **DNSP** means Distribution Network Service Provider and has the same meaning given to that term in the National Electricity Rules.
- (6) **Energy Retail Code** means Energy Retail Code, Version 4 October 2007.
- (7) **Export Credits** means the amount of Net Export Electricity to be carried forward into the next Billing Period as a credit to the Customer (in units of kWhs), calculated in accordance with clause 6.3.
- (8) **Export Electricity** means the quantity of electricity generated from the SGU at the Premises that is exported into the Network.
- (9) **Import Electricity** means the quantity of electricity sold by Country Energy to the Customer under the Customer Supply Contract.
- (10) **Metering Equipment** means a meter installed at the Customer's Premises in accordance with clause 5.
- (11) **National Electricity Rules** means the National Electricity Rules as published by the Australian Energy Market Commission from time to time.
- (12) **Net Export Electricity** means the amount by which Export Electricity exceeds Import Electricity.
- (13) **Network** means the network the SGU may be able to export electricity to and includes the meaning given to that term in the National Electricity Rules.
- (14) **Premises** means the premises at which the Customer proposes to install the SGU.
- (15) **Responsible Person** means the person who has responsibility for meter reading for a particular connection point, being either Country Energy or the relevant distributor.
- (16) **Schedule** means the Schedule at the end of this Agreement.
- (17) **Small Generation Unit** or **SGU** has the meaning given to that term in the *Renewable Energy (Electricity) Act 2000 (Cth)*.
- (18) **Tariff** means the retail Tariff paid by the Customer for electricity they import from the Network under the Customer Supply Contract.
- (19) **Term** is the period of time set out in clause 11.1.

2.3 Interpretation

- (1) Reference to:
 - (a) one gender includes the others;
 - (b) the singular includes the plural and the plural includes the singular;
 - (c) a person includes a body corporate;
 - (d) a party includes the party's executors, administrators, successors and permitted assigns;

- (e) a statute, regulation or provision of a statute or regulation (**Statutory Provision**) includes:
 - (i) that Statutory Provision as amended or re-enacted;
 - (ii) a statute, regulation or provision enacted in replacement of that Statutory Provision; and
 - (iii) another regulation or other statutory instrument made or issued under that Statutory Provision; and
- (f) money is to Australian dollars, unless otherwise stated.
- (2) "Including" and similar expressions are not words of limitation.
- (3) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (4) Headings and any table of contents or index are for convenience only and do not form part of this Agreement or affect its interpretation.
- (5) A provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement.
- (6) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

2.4 Parties

- (1) If a party consists of more than 1 person, this Agreement binds each of them separately and any 2 or more of them jointly.
- (2) An obligation, representation or warranty in favour of more than 1 person is for the benefit of them separately and jointly.
- (3) A party which is a trustee is bound both personally and in its capacity as a trustee.

3. Additional Costs Payable by the Customer

3.1 The parties acknowledge the following costs are payable by the Customer:

- (1) network connection costs, in accordance with clause 4;
- (2) metering costs, in accordance with clause 5; and
- (3) other costs as detailed in item 5 of Schedule 1.

3.2 Country Energy will inform the Customer of the estimated amount of the above costs on request of the Customer prior to executing this Agreement.

4. Network Connection

- 4.1 The Customer acknowledges that Country Energy is not responsible for the connection of the Small Generation Unit to the local DNSP. However, if requested by the Customer, Country Energy will make a request to the relevant distributor to connect the Customer's Small Generation Unit to the distributor's distribution system as soon as practicable after the Customer satisfies the application requirements under clause 1 of the Energy Retail Code. Country Energy will make the request by no later than the next business day after receiving from the Customer all documentation required under the Electricity Safety Act 1998 and all documentation reasonably required by Country Energy or the relevant distributor. A fee as detailed in item 5 of Schedule 1 will apply.
- 4.2 The Small Generation Unit must be connected to the local DNSP prior to execution of this Agreement.
- 4.3 The parties acknowledge that the connection of the Small Generation Unit to the local DNSP is to comply with Australian Standard 4777.
- 4.4 The Customer must ensure that the Small Generation Unit remains connected to the local DNSP during the Term of this Agreement.

5. Metering

- 5.1 Before the Commencement Date the Customer must at its own cost cause the Metering Equipment to be installed, maintained and operated to ensure an accurate measurement of the Export Electricity.
- 5.2 The Customer must ensure that the Metering Equipment complies with the requirements of the National Electricity Market Management Company, the National Electricity Rules and any other applicable regulatory instrument.
- 5.3 Unless the Customer gives explicit informed consent, Country Energy will base all payment or credit under this Agreement on a reading of the Customer's NEM-compliant meter that records the supply of electricity from the Customer to the distribution system, and in any event, Country Energy will use its best endeavours to ensure that the meter is read at least once in any 12 month period. For the avoidance of doubt, Country Energy does not breach this clause if Country Energy is unable to read a meter in any relevant period as a result of the Customer breaching clause 8.1(3) of the Agreement or some other event outside Country Energy's control.
- 5.4 If Country Energy is not able to reasonably or reliably base a payment or credit on a reading under this Agreement of the meter, Country Energy will not make a payment or credit unless the relevant distributor estimates the generation in accordance with applicable regulatory instruments.

6. Export Credits and Net Export Electricity

- 6.1 The Customer agrees to sell and Country Energy agrees to purchase all Export Electricity in accordance with this Agreement.
- 6.2 If the Export Electricity does not exceed the Import Electricity in any Billing Period then the Export Electricity will be offset against the Import electricity used by the Customer during

this period. This will be recorded in a separate line item in the Customer's bill in accordance with the Customer Supply Contract.

- 6.3 If the Export Electricity exceeds the Import Electricity in any Billing Period then the Customer's bill will be zero and the Net Export Electricity will be carried forward into the next Billing Period as Export Credits until such time as the sum of Import Electricity exceeds the cumulative sum of Export Credits at which time the customer will be billed in accordance with the Customer Supply Contract.
- 6.4 Where a Customer's account remains in credit for more than one year the Customer may request that Country Energy payout the Export Credits by way of cheque. The value of the Export Credits will be calculated in accordance with the Customer Supply Contract.
- 6.5 At no time will Country Energy be required to issue a Recipient Created Tax Invoice to the customer.

7. Country Energy's Obligations

- 7.1 Country Energy will pay or credit the customer for the electricity supplied by the customer, at a rate not less than the rate the customer pays to buy electricity from Country Energy.
- 7.2 Country Energy will review a payment or credit to a Customer at the Customer's request, to be conducted on the basis specified in clause 6.1 of the Energy Retail Code.
- 7.3 If Country Energy seeks to bill the Customer to make up overpaying or over-crediting the Customer for electricity supplied by the Customer, Country Energy is to proceed on the basis specified in clause 6.2 of the Energy Retail Code.
- 7.4 If Country Energy has underpaid or under-credited the Customer for electricity supplied by the Customer, Country Energy will credit the amount on the Customer's next bill.
- 7.5 Country Energy will give the Customer notice of any variation to Country Energy's tariffs that affect this Agreement. The notice will be given as soon as practicable and in any event no later than the next billing and payment cycle.
- 7.6 On request, Country Energy will provide the Customer with reasonable information on any feed-in tariffs Country Energy may offer to the Customer. The information must be given within 10 business days of the Customer's request, and if the Customer requests it, in writing.
- 7.7 Country Energy will retain the Customer's historical feed-in payment or crediting data for at least two years, even though in the meantime the Customer's contract with Country Energy to supply electricity to the distribution system and the Customer's contract to buy electricity from Country Energy may have terminated.
- 7.8 Country Energy will process a Customer's request for historical data relating to a feed-in contract in the same manner as a request for historical data relating to a supply of electricity to the Customer under clause 27.2 of the Energy Retail Code.

8. Customer's Obligations

- 8.1 The Customer must ensure that:
 - (1) the power rating of the Small Generation Unit is no greater than 300kW installed capacity;

- (2) it obtains all necessary licences, approvals and registrations at its own cost to enable it to supply the Export Electricity in accordance with the terms and conditions of this Agreement;
- (3) the Customer will allow Country Energy, the Responsible Person or the responsible person's representative; safe, convenient and unhindered access to the relevant address and to the meter that records the supply of electricity from the Customer to the distribution system, for the purpose of reading the meter and for connection, disconnection, reconnection, maintenance and repair. Country Energy, the responsible person, or Country Energy's or responsible person's representative will carry or wear official identification and, on request, will show that identification to the Customer;
- (4) the Customer will inform Country Energy of any proposed changes to the connection to the network and ensure all modifications are done in accordance with the relevant connection contract; and
- (5) the Customer will inform Country Energy as soon as possible of any relevant change to contact details.

9. Statement of Account

- 9.1 Subject to clause 10, the amount of Export Electricity acquired by Country Energy pursuant to clauses 6 will be applied to bills rendered by Country Energy to the Customer during each Billing Period and will be recorded and accounted for in the invoices issued by Country Energy to the Customer for such Billing Period under the Customer Supply Contract.
- 9.2 If the Customer disputes in good faith Country Energy's determination of any of the items in an invoice and the dispute is not resolved within 30 days after the date for payment, the dispute must be resolved in accordance with clause 15.

10. Goods and Services Tax

- 10.1 In this clause:
 - (1) "GST" means GST as defined in the *A New Tax System (Goods and Services Tax) Act 1999* as amended from time to time ("**GST Act**") or any replacement or other relevant legislation and regulations;
 - (2) An expression or word used in this clause which has a particular meaning in the "GST law" (as defined in the GST Act), or in any applicable legislative determinations, has the same meaning, unless the context otherwise requires; and
 - (3) A reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member, and a reference to an input tax credit entitlement of a party includes any corresponding input tax credit entitlement of the representative member of any GST group of which that party is a member.
- 10.2 Unless GST is expressly included, the consideration expressed to be payable or to be provided under any clause in this Agreement for any supply made under or in connection with this Agreement does not include GST.

- 10.3 To the extent that any supply made under or in connection with this Agreement is a taxable supply, the GST exclusive consideration otherwise payable or provided for that taxable supply is increased by an amount equal to that consideration multiplied by the rate at which GST is imposed in respect of the taxable supply, and subject to receipt of an effective tax invoice, is payable at the same time.
- 10.4 If for any reason (including, without limitation, the occurrence of an adjustment event) the amount of GST payable on a taxable supply (taking into account any decreasing or increasing adjustments in relation to the taxable supply) varies from the GST payable by the recipient under clause 10.4(3):
- (1) The supplier must provide a refund or credit to the recipient, or the recipient must pay a further amount to the supplier, as appropriate;
 - (2) The refund, credit or further amount (as the case may be) will be calculated by the supplier in accordance with the GST law; and
 - (3) The supplier must notify the recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. If there is an adjustment event in relation to the supply, the requirement for the supplier to notify the recipient will be satisfied by the supplier issuing to the recipient an adjustment note within 14 days after becoming aware of the occurrence of the adjustment event.
- 10.5 Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party to claim any input tax credit, adjustment or refund in relation to any amount of GST paid or payable in respect of any supply made under or in connection with this Agreement.
- 10.6 If a payment to a party under this Agreement is a payment by way of reimbursement or indemnity and is calculated by reference to the GST inclusive amount of a loss, cost or expense incurred by that party, then the payment is to be reduced by the amount of any input tax credit to which that party is entitled in respect of that loss, cost or expense before any adjustment is made for GST pursuant to clause 10.4(3).

11. Term and Termination

- 11.1 This Agreement commences on the Commencement Date, which the parties acknowledge will not commence until the Customer has given explicit informed consent, and will continue until it is terminated in accordance with this clause.
- 11.2 This Agreement will terminate upon the earlier of:
- (1) the termination or earlier expiration of the Customer Supply Contract for the Premises; or
 - (2) the date the Customer vacates the Premises.
- 11.3 This Agreement may be terminated:
- (1) at any time upon mutual agreement between the parties; and
 - (2) by the Customer without notice, and Country Energy may impose an early termination fee of \$ 95.00 in accordance with clause 24.1(d) of the Energy Retail Code.

- 11.4 Despite any notice period, termination under this Agreement does not become effective until:
- (1) if the customer and the retailer enter a new feed-in contract, the expiry of any cooling-off period in respect of the new feed-in contract;
 - (2) if this Agreement is terminated because the Customer wants to enter a feed-in contract with another retailer, the date when the other retailer becomes responsible for the feed-in contract; or
 - (3) if a contract for the supply of electricity to the Customer is terminated with regard to a relevant supply address having been disconnected, the date when the customer no longer has a right under the Energy Retail Code to be reconnected,
- whichever occurs last.
- 11.5 If this Agreement is terminated, all accumulated Export Credits to the date of termination will be paid in full to the Customer in accordance with the terms of this Agreement.
- 11.6 Subject to clause 11.3, Country Energy may not terminate a feed-in contract with the Customer unless Country Energy and the Customer enter into a new feed-in contract, or the Customer has transferred to another retailer in respect of the address relevant to this Agreement.

12. Rights of Renewal

- 12.1 Country Energy will notify the Customer of the following information between one and two months before the expiry date of this Agreement:
- (1) the date that this Agreement is due to expire;
 - (2) the options available to the Customer; and
 - (3) the tariff and terms and conditions that will apply after that date if the Customer does not exercise any other option; and
- 12.2 This Agreement between Country Energy and the Customer will continue after the expiry date on the tariff and terms and conditions notified, without further need for written agreement, provided the tariff and terms and conditions have taken effect in accordance with section 40H of the Electricity Industry Act 2000.

13. Force Majeure

- 13.1 If a Force Majeure event occurs which is outside the reasonable control of Country Energy or the Customer and Country Energy or the Customer breaches this Agreement due to this event only, the breach is to be dealt with on the basis specified in clause 18 of the Energy Retail Code.

14. Liability and Warranties

- 14.1 Effect of Legislation

Notwithstanding any other provision of this Agreement, nothing in this Agreement is to be read as excluding, restricting or modifying the application of any legislation which by law cannot be excluded, restricted or modified.

14.2 Exclusion of Implied Warranties

Except as expressly set out in this Agreement, any representation, warranty, condition or undertaking which would be implied in this Agreement by law, is excluded to the fullest extent permitted by law.

14.3 Limitation of Liability

The liability of Country Energy, if any,

- (1) for a breach of a non-excludable condition or warranty implied by the *Trade Practices Act 1974* in relation to the supply of goods or services not of a kind ordinarily acquired for personal, domestic or household use or consumption or
- (2) in negligence, in tort, in contract or otherwise;

is limited, at Country Energy's option, to:

- (1) in the case of goods, one of the following – the replacement of the goods, the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods, the payment of the cost of acquiring equivalent goods or the payment of the cost of having the goods repaired; or
- (2) in the case of services – the supplying of the services again or the payment of the cost of having the services supplied again.

14.4 Statutory Immunity

The Customer acknowledges that the terms of this Agreement do not represent a waiver by Country Energy of, nor an agreement to vary or exclude, any limitation of Country Energy's liability under sections 119 or 120 of the National Electricity Law.

14.5 Limitation of Country Energy's Liability

Subject to clause 14.3, to the fullest extent permitted by law, Country Energy and its employees, agents and contractors are not liable in negligence, in tort, in contract or otherwise to the Customer for:

- (1) any direct losses or damages of any kind suffered by the Customer as a result of any act, omission or breach by Country Energy or any of its employees, agents or contractors;
- (2) any consequential, indirect or special losses or damages of any kind (including, without limitation, loss of profit, loss or corruption of data, business interruption or indirect costs) suffered by the Customer as a result of any act, omission or breach by Country Energy or any of its employees, agents or contractors.

15. Disputes

- 15.1 A complaint by the Customer in relation to this Agreement will be handled by Country Energy in accordance with the relevant Australian Standard on Complaints Handling or the "Benchmark for Industry Based Customer Dispute Resolution Schemes" published by the

Department of Industry, Tourism and Resources (Cth). Country Energy will proceed in the manner specified in clause 28.2 of the Energy Retail Code.

16. Notices

- 16.1 Unless otherwise stated, all notices and bills issued under this Agreement will be sent in writing and given by hand, by fax, by mail or by email.
- 16.2 Clause 16.1 of this Agreement does not apply, if a term or condition of the Energy Retail Code provides or otherwise contemplates that a notice, consent document or other communication may be given by a retailer otherwise than in writing.

17. General Matters

17.1 Inconsistency with Customer Supply Contract

To the extent of any inconsistency between this Agreement and the Customer Supply Contract, the terms of this Agreement will prevail.

17.2 Severability

If anything in this Agreement is unenforceable, illegal or void then it is severed and the rest of this Agreement remains in force.

17.3 Entire Understanding

This Agreement and the Customer Supply Contract is the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement.

17.4 Variation

- (1) An amendment or variation to this Agreement, is not effective unless it is in writing and signed by the parties; and
- (2) For the avoidance of doubt, if the amount of the tariff changes in accordance with a term or condition of a feed-in contract previously agreed between the Customer and Country Energy, no further agreement is required.

17.5 No Partnership

This Agreement does not create or evidence a partnership or joint venture.

17.6 Assignment

- (1) Subject to clause 17.6(2), a party may not assign or otherwise deal with this Agreement without the prior written consent of the other party, which consent must not be unreasonably withheld.
- (2) Country Energy may assign this Agreement if the assignment forms part of the transfer to the same third party of all or substantially all of Country Energy's retail business.

17.7 Confidentiality

Version 2
Effective: January 2008

- (1) The Customer acknowledges that information disclosed to it by Country Energy under this Agreement is confidential.
- (2) Except as stated in this Agreement, the Customer must not and must not permit any of its employees to use or disclose to any person any information disclosed to it by Country Energy under this Agreement without Country Energy's prior written consent.
- (3) This clause 15.6 does not apply to any information which:
 - (a) is generally available to the public (other than as wrongful disclosure by the Customer or its employees); or
 - (b) is required to be disclosed by any lawand remains in force for five years following termination or expiration of this Agreement.

17.8 Governing law and jurisdiction

- (1) The law of Victoria governs this Agreement.
- (2) The parties submit to the non-exclusive jurisdiction of the courts of Victoria and of the Commonwealth of Australia.

Executed as an agreement by:

Signed for and on behalf of **COUNTRY ENERGY** ABN 37 428 185 226 by its authorised representative in the presence of:

Signature of Witness

Signature of Authorised Representative

Name of Witness
(BLOCK LETTERS)

Name of Authorised Representative
(BLOCK LETTERS)

Address of Witness

Executed by **[INSERT NAME OF COMPANY]**
in accordance with section 127 of the
Corporations Act 2001:

Director/Company Secretary

Director

Name of Director/Company Secretary
(BLOCK LETTERS)

Name of Director
(BLOCK LETTERS)

Signed by **[insert name of person]** in the
presence of:

Signature of Witness

Name of Witness (BLOCK LETTERS)

Address of Witness

Schedule 1

Item 1 National Meter Identifier (NMI)

Item 2 Commencement Date

Item 3 Capacity (kW) of SGU

Item 4 Type of SGU (PV, wind, hydro, etc.)

Item 5 Other Costs payable by the customer

Application Fee (payable up front): \$ _____

Distributor Connection liaison fee (payable up front): \$ _____