

Feed-in Agreement.

The full details.

Queensland.



Agreement for AGL’s Queensland Energy Feed-in Program.

(Generator Below 100kW)

Effective from August 2008.

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TERMS AND CONDITIONS

1 TERM

This Agreement commences on the date it is signed by the parties and ceases to have effect on the date that it is terminated in accordance with the terms of this Agreement (save for those rights and obligations which have accrued prior to termination).

2 CONDITION PRECEDENT

AGL's obligations under this Agreement will not commence in relation to the Site Address until regulatory compliant metering equipment has been installed and you have satisfied any pre-conditions notified to you by AGL or your local electricity distributor.

3 WARRANTIES

3.1 Generator

You represent and warrant that:

- (a) if you are a corporation, the signatory to this Agreement has full corporate power and authority to enter into and perform this Agreement;
- (b) you were or will be the owner of the Generation Unit;
- (c) all of the electricity Sent Out at the Connection Point will be generated by the Generation Unit.

3.2 AGL

AGL represents and warrants that it has full corporate power and authority to enter into and perform this Agreement.

4 GENERATOR'S OBLIGATIONS

4.1 General obligations

You agree to:

- (a) (operation and maintenance) operate and maintain the Generation Unit in commercial working order at the Site Address during the term of this Agreement, unless otherwise agreed by AGL;
- (b) (connection and access agreement) comply with your obligations under the Connection and Access Agreement;
- (c) (commissioning) ensure that the Generation Unit is installed, commissioned and commences generating electricity by no later than the day that this Agreement commences; and
- (d) (send out electricity) send out at the Connection Point all electricity generated by the Generation Unit other than electricity consumed by you at the Site Address.

4.2 Environmental Products

- (a) You agree to transfer to AGL all Environmental Products relating to the Generation Unit from time to time.

- (b) If you have notified AGL in writing prior to the execution of this Agreement that you have transferred all or part of the Environmental Products relating to the Generation Unit to a third party ('Excluded Product'), clause 4.2(a) will not apply to that Excluded Product.

5 PURCHASE OF ELECTRICITY

5.1 Sent Out electricity

AGL agrees to pay the Electricity Price for all Sent Out electricity derived from the Generation Unit during the term of this Agreement.

5.2 Change of retailer

If you cease to purchase electricity from AGL under a Customer Sale Contract, this Agreement will terminate on the date that the Customer Sale Contract is terminated.

6 BILLING AND PAYMENT

6.1 Payment for electricity

Subject to clauses 6.3 and 6.4, AGL agrees to pay to you in each Billing Period an amount calculated by multiplying the quantity of electricity Sent Out (kWh) in the relevant Billing Period by the Electricity Price.

6.2 Sent Out electricity

For the purposes of this Agreement, the amount of electricity Sent Out in a Billing Period will be taken to be the amount metered at the Connection Point as having been sent into the local electricity network by the Generation Unit during that Billing Period.

6.3 Adjustment to Customer Sale Contract

AGL will arrange for a credit to be given to you for electricity purchased by AGL under this Agreement, against sums that would otherwise be payable by you under your Customer Sale Contract.

6.4 Payment or credit

- (a) In each Billing Period if the amount payable by AGL for the purchase of electricity under clause 6.1 in the Billing Period exceeds the amount that is payable by you under your Customer Sale Contract, AGL will carry the excess forward to be credited against future amounts owing by you under your Customer Sale Contract.
- (b) On termination of this Agreement any carried forward amount or credit will be paid to you.

6.5 Billing

Bills provided by AGL to you under your Customer Sale Contract will detail, or be accompanied by detail as to, the amount (if any) AGL is required to pay to you in accordance with this clause 6.

6.6 Tax Invoice

If:

- (a) you are registered, or required to be registered for GST; and
- (b) in any Billing Period, you receive from AGL in accordance with this clause 6, an amount of money or a credit against sums that would otherwise be payable by you under your Customer Sale Contract,

then, unless you have entered into an arrangement with AGL allowing AGL to issue recipient-created tax invoices on your behalf, within seven days of receiving the payment or the credit (as applicable), you must send AGL a valid Tax Invoice for the advised amount of the payment or credit before AGL will make payment.

6.7 Metering

You must ensure that at all times the Site Address has a meter that is capable of measuring the amount of electricity Sent Out into the local electricity network.

6.8 Variation of Electricity Price

- (a) Subject to clause 9.1, the Electricity Price for the Sent Out electricity in a Billing Period will be varied to be equal to the 'peak rate' (cents per kWh) that you are charged for electricity sold to you by AGL for that Billing Period under your Customer Sale Contract from time to time.
- (b) If clause 4.2(b) applies, AGL reserves the right to vary the Electricity Price at any time during the term of this Agreement, by giving you 20 Business Days written notice.

7 GST

7.1 Goods and services tax

Any consideration to be paid or provided for a supply made under or in connection with this Agreement, unless specifically described in this Agreement as 'GST inclusive', does not include an amount on account of GST. Despite any other provision in this Agreement, if a party (Supplier) that makes a supply under or in connection with this Agreement is subject to GST (not being a supply the consideration for which is specifically described in this Agreement as 'GST inclusive'):

- (a) the consideration payable or to be provided for that supply under this Agreement but for the application of this clause (GST exclusive consideration) is increased by, and the recipient of the supply (Recipient) must also pay to the Supplier, an amount equal to the GST payable by the Supplier on that supply; and
- (b) the amount by which the GST exclusive consideration is increased shall be paid to the Supplier by the Recipient without set-off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.

7.2 Reimbursements

If this Agreement requires a party to reimburse or indemnify the other party for any expense, loss or outgoings incurred by that party (reimbursable expense), then the amount required to be paid by the first party will be the sum of:

- (a) the amount of the reimbursable expense, net of input tax credits (if any), to which the other party is entitled in respect of the reimbursable expense; and
- (b) if the other party's recovery of the reimbursable expense from the first party is a taxable supply, any GST payable in respect of that supply.

7.3 Adjustment notes

The Generator shall give AGL an adjustment note for an adjustment arising from an adjustment event relating to a taxable supply made under or in connection with this Agreement within five Business Days after the date you become aware of the adjustment event.

7.4 Recipient Created Tax Invoices

In the event that:

- (a) you are registered, or required to be registered for GST; and
- (b) you are legally able to enter into an arrangement with AGL allowing AGL to issue recipient created tax invoices, you shall (at the election of AGL) enter into such an arrangement.

7.5 Definitions

Words or expressions used in this clause 7 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* have the same meaning in this clause.

8 INFORMATION

8.1 Use of Information

- (a) You consent to AGL seeking, using and disclosing information concerning you, the Site Address, the Generation Unit, your electricity production, metering, billing data and history (and any related or similar information) for the purpose of complying with its obligations under this Agreement or any relevant law, or for any other lawful purpose AGL reasonably considers necessary.
- (b) Unless prevented by law, AGL or its related bodies corporate (as that term is defined in the *Corporations Act 2001(Cth)*) can use this information to offer to sell you other products and services. You may notify AGL at any time if you do not wish AGL to use this information in this manner.

8.2 Confidential information

Each party agrees that the terms of this Agreement and any information disclosed to it by the other in confidence is confidential and each party agrees not to disclose any of that confidential information to any person without the prior written consent of the other, except to the extent:

- (a) permitted under this Agreement (including clause 8.1);
- (b) the information enters the public domain, otherwise than by reason of its own default;
- (c) required by applicable laws or by regulations of any government or governmental agency having jurisdiction over that party (including the ASX or any other relevant stock exchange authority);
- (d) required by an order of a court of competent jurisdiction for the purposes of any litigation or arbitration arising from this Agreement;
- (e) disclosed to a related body corporate (within the meaning of the *Corporations Act 2001(Cth)*);
- (f) disclosed to its employers, directors, professional advisers or auditors having a relevant interest in this Agreement; or
- (g) disclosed to a bona fide purchaser or potential purchaser of the Site Address.

8.3 Continuing obligations

The obligations under this clause 8 survive the termination of this Agreement and will be observed for a period of two years following the date of termination of this Agreement.

9 TAXES

9.1 Effect of Tax on price

Where there is a material change in any Taxes, or a change to the interpretation or effect of any Taxes, or any new Taxes are introduced or commence after the date of this Agreement which have any affect on the costs incurred by AGL undertaking its obligations or exercising its rights under this Agreement, AGL may adjust the Electricity Price to reflect the increase or decrease in those costs.

9.2 Costs

Each party will bear its own costs arising out of the preparation of this Agreement. Except where this Agreement expressly provides otherwise, any stamp duty (including fines and penalties) chargeable on this Agreement, or any instruments entered into under this Agreement, and in respect of a transaction evidenced by this Agreement, will be borne equally by the parties.

10 CHANGE IN LAW

AGL may, by notice to you, vary a provision of this Agreement in such manner as AGL reasonably determines is necessary to reflect any changes to Energy Law or in the interpretation or application of an Energy Law.

11 NOTICES

11.1 Notices

All notices or other documents required or authorised to be given to a party must be in writing and may be given by being delivered to, or sent by pre paid ordinary mail or facsimile to the address for that party specified in the Schedule, or such other address as is notified from time to time.

11.2 Deemed service

Notices are deemed to have been duly given in the case of:

- (a) facsimile on the same Business Day as the sender's facsimile machine produces a transmission confirmation report and the Notice is sent by 4.00pm on that Business Day but if confirmed as sent after 4.00pm, the next Business Day; and
- (b) mail, on the third Business Day following posting.

12 TERMINATION AND DEFAULT

12.1 Termination

Either party may terminate this Agreement by giving 20 Business Days written notice to the other party ('Termination Notice').

12.2 AGL may elect to offer new terms

- (a) If AGL provides a termination notice to you in accordance with clause 12.1, AGL may elect to include in that termination notice an offer to purchase the Sent Out electricity on the terms and conditions set out in the termination notice.
- (b) Notwithstanding clause 12.2(a), this Agreement will terminate on the 21st Business Day after the date that the termination notice is received by you.

12.3 Default

If an Event of Default occurs the non-defaulting party may give notice to the defaulting party specifying the Event of Default.

12.4 Termination

If the non-defaulting party has given notice of an Event of Default and the Event of Default remains un-remedied for 10 days or such longer period specified in the notice, after the giving of the notice, the non-defaulting party may, by further notice terminate this Agreement. Nothing in this clause 12 will prejudice the right of the non defaulting party to recover damages or exercise any other right at general law.

12.5 Insolvency

If an Insolvency Event occurs in respect of a party (the 'first party') the other party may forthwith terminate this Agreement by giving notice to the first party.

12.6 Accrued rights and obligations

Termination of this Agreement does not affect any accrued rights or remedies of either party.

13 DISPUTE RESOLUTION

13.1 Dispute

Any dispute arising out of or relating to this Agreement must be resolved in the following manner:

- (a) the party claiming the dispute must give notice of it to the other party; and
- (b) if the dispute is not resolved by agreement within 10 Business Days of such notice being given, the parties must refer the dispute to an independent expert appointed by the parties.

13.2 Appointment of expert

The independent expert must be chosen:

- (a) by agreement between the parties within 15 Business Days of service of the notice of dispute; or
- (b) in default of agreement, by the President of the Queensland Law Society, or the President's nominee, at the request of either party.

13.3 Role of expert

The independent expert must act as an expert and not as an arbitrator and must determine the rules for the conduct of the process.

13.4 Costs of expert

The costs and expenses of any determination by the independent expert must be borne by either or both of the parties to the dispute as the expert making the determination may decide.

13.5 Decision binding

A determination made by an expert pursuant to this clause is final and binding upon the parties, in the absence of fraud or manifest error.

13.6 Performance of Agreement

The parties agree that, except to the extent that the dispute is of a technical nature and relates to the quality of supply of electricity, in which case the obligations of the parties will be suspended until the dispute is resolved in accordance with this clause, they will be bound to perform their respective obligations arising under this Agreement, despite the dispute.

14 ASSIGNMENT

14.1 Assignment by AGL

AGL may, without your consent, assign its rights under this Agreement to any related body corporate (within the meaning of the *Corporations Act 2001 (Cth)*).

14.2 Release upon assignment

If AGL assigns its rights under this Agreement in accordance with clause 14.1, and the related body corporate or the Local Retailer (as the case may be) provides an undertaking that it will be bound by the terms of this Agreement, AGL will, upon that undertaking being given, be released from its obligations under this Agreement.

14.3 Assignment by you

If you cease to own or occupy the Site Address, you will be deemed to have assigned this Agreement to the new owner or occupier (as applicable) of the Site Address.

15 LIMITATION OF LIABILITY

15.1 Acknowledgments

You acknowledge that:

- (a) AGL does not operate or physically control the local electricity network to which the Generation Units are connected;
- (b) AGL is not responsible for the acts or omissions of any third party (including where applicable your electricity distributor);
- (c) AGL does not give any express or implied warranty to you about the adequacy, safety or other characteristics of your Generation Unit, electrical installation or equipment;
- (d) you are solely responsible for the use of any electricity produced by the Generation Unit which is not Sent Out;
- (e) AGL does not guarantee or make any representation to you regarding any of the following:
 - (i) interruption to the flow of electricity;
 - (ii) the occurrence of any power surges;
 - (iii) power dips; or
 - (iv) our ability to take Sent Out electricity.

15.2 Limitation of liability

- (a) So far as the law allows and subject to clause 15.2(b), the liability of a party (Party X) to the other party (Party Y) arising out of or in connection with this Agreement is limited to loss, damages, costs, charges and expenses directly sustained or incurred by Party Y as a result of:
 - (i) personal injury to Party Y or its employees or agents; or
 - (ii) damage to the property of Party Y or its employees or agents,caused by Party X's breach of this Agreement or negligent act or omission, up to a maximum of \$500,000 per event.

- (b) So far as the law allows, neither party will be liable to the other in contract, in tort, in equity, by operation of statute or otherwise for any kind of:
 - (i) indirect or consequential loss or damage;
 - (ii) loss of opportunity, revenue, profit or anticipated profit; or
 - (iii) loss arising from business interruption; suffered or incurred by the other party, or any other person and arising out of or in connection with this Agreement.
- (c) This clause 15 survives termination of this Agreement.

16 GENERAL

- 16.1** This Agreement is governed by the laws in force in the State of Queensland and the parties submit to the non-exclusive jurisdiction of the courts of or exercising jurisdiction in that State including all Courts of Appeal.
- 16.2** This Agreement contains the entire agreement of the parties on the subject matter and supersedes all prior understandings and arrangements between the parties. This Agreement may be altered or amended only by agreement executed by the parties.
- 16.3** The failure of a party to enforce at any time a provision of this Agreement or for the granting of any time or indulgence will not be construed as a waiver of the provision nor of the right of the party at a later time to enforce a provision.

17 DEFINED TERMS

In this Agreement, unless the context otherwise indicates a contrary intention:

ASX means Australian Stock Exchange Limited.

Billing Period means the period specified as such in the Customer Sale Contract.

Business Day means, with respect to any act or thing, a day other than a Saturday, Sunday or public holiday in the place where the act or thing is to occur.

Connection and Access Agreement means an agreement with your local electricity distributor enabling electricity to be Sent Out from the Generation Unit to the local electricity network.

Connection Point means the Generation Unit's connection point with the local electricity network.

Customer Sale Contract means the agreement applying from time to time between you and AGL under which AGL sells, or will sell electricity to you for the Site Address.

Electricity Price has the meaning given in item 2.1 of the Schedule.

Environmental Products means:

- (a) all rights and interests associated with the electricity generated by the Generation Unit as created under any Renewable Energy Legislation including any Renewable Energy Certificates, Green Power Rights or other emissions or environmental credits, certificates, or benefits; and
- (b) New Environmental Products.

Energy Law means any statutes, regulations, Codes, directions, mandatory guidelines, licence conditions or other regulatory instrument which governs or affects any one or more of the price of electricity, the cost to AGL of purchasing or selling electricity, the delivery or sale of electricity, or the electricity industry generally, including Renewable Energy Legislation.

Event of Default means in respect of either party, if:

- (a) it fails to pay any money due and owing by it to the other;
- (b) (in the case of you only) you are in breach of any term of the Connection and Access Agreement which entitles the counterparty to terminate or suspend that agreement; or
- (c) it fails to perform or comply with any of its other obligations contained in this Agreement.

Generation Unit means the generating unit or units installed at the Site Address as described in item 1 of the Schedule.

GreenPower Right means a right to claim any eligible GreenPower generation (or a portion of generation) that may arise in respect of the Generation Unit that may be bought by or transferred to AGL in accordance with the National GreenPower Accreditation Program.

GST has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Insolvency Event means in relation to a party:

- (a) (if you are a natural person) you become bankrupt;
- (b) the appointment of a receiver, an administrator or other controller is appointed and such appointment has not been revoked, discharged, stayed, enjoined or withdrawn within 20 days of the appointment;
- (c) a liquidator or provisional liquidator is appointed or an order is made or an effective resolution is passed for its liquidation and such appointment, order or resolution is not revoked, discharged, stayed, enjoined or withdrawn within 20 days or the party enters into an arrangement or composition with its creditors within the meaning of the *Corporations Act 2001 (Cth)*;
- (d) a failure to satisfy a statutory demand under the *Corporations Act 2001 (Cth)*.

National GreenPower Accreditation Program means the program of that name which is a joint initiative of the state government agencies in ACT, NSW, SA, QLD, VIC and WA.

New Environmental Products means any present or future benefits, rights, credits or entitlements, including (but without limitation) those associated with or are created or are able to be created as part of any 'GreenPower' initiative, or under any Renewable Energy Legislation, or in relation to a reduction in emission of greenhouse gases attributed to the Generation Unit.

Renewable Energy Certificates means any certificates created in relation to the Generation Unit in accordance with the Renewable Energy Legislation.

Renewable Energy Legislation means the *Renewable Energy (Electricity)(Charge) Act (Cth)*, the *Renewable Energy (Electricity) Act (Cth)* and any other Energy Law which has as one of its purposes the reduction, control or limitation of greenhouse gases, dealing with the effects of climate change, or the minimisation of the impact on the environment of the electricity industry generally

Sent Out has the meaning given in clause 6.2.

Site Address means the site address identified as such in item 3 of the Schedule.

Tax includes any tax, levy, impost, deduction, charge, rate, duty, compulsory loan or withholding which is levied or imposed by a government agency, and any related interest, penalty, charge, fee or other amount (but it does not include any amount payable to NEMMCO, AER or AEMC).

Tax Invoice has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999*.

Energy in
action.®

AGL

For more information on being energy efficient,
just call us on **131 245** or visit www.agl.com.au

Arabic

هل تحتاج لمترجم؟ اتصل على الرقم أدناه:

Spanish

¿Necesita un intérprete? Llame al número indicado abajo.

Italian

Se vi serve un interprete, telefonate al seguente numero.

Greek

Αν χρειάζεστε διερμηνέα, τηλεφωνείτε στον αριθμό παρακάτω.

Croatian

Trebate li pomoć tumača? Nazovite niže navedeni broj.

Vietnamese

Nếu quý vị cần sự giúp đỡ, vui lòng gọi số bên dưới.

Chinese

如果您需要傳譯員的幫助，請致電以下號碼。

For language assistance please call **131 245**.

AGL Sales Pty Limited ABN 88 090 538 337



CONSUMER

AGL Energy uses
Greenhouse Friendly™
ENVI Silk Carbon Neutral Paper

ENVI Silk is an Australian Government
certified Greenhouse Friendly™ Product.