



Victoria Government Gazette

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ELECTRICITY PURCHASE AGREEMENT (SMALL WIND GENERATORS)

Recitals

- A. Origin wishes to purchase from the Generator and the Generator wishes to sell to Origin the Export Electricity and, if provided for by this Agreement, all environmental rights from the Unit.
- B. The parties have agreed to enter into this Agreement to record the terms on which the purchase and sale will occur.

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document:

ABN Withholding Form is the form attached at Schedule 2.

Applicable Regulations means any law, code, or rule and any other regulatory instrument which binds either party.

Connection Point means the point at which the Unit is physically connected to the Network.

Generator means the person so described in schedule 1.

Deadline Date means the date specified as such in Schedule 1.

Differential has the meaning in clause 9.4.

Distributor is the distributor which operates the network which the Unit is directly connected to.

EI Act means the **Electricity Industry Act 2000** (Vic).

End Date means the date specified in schedule 1.

Export Energy Charges means the charges specified under schedule 1.

Export Electricity is the electricity generated by the Unit and injected into the network as recorded by the Meter.

Generator Supply Voltage is the voltage specified by the Distributor.

Good Operating Practice means the practices, methods and acts engaged in by operators of electricity generating plant in Australia or internationally comparable to the Unit that would be expected to accomplish the desired result in a manner consistent with law, regulation, high reliability, safety, environmental protection, economy and expedition.

GPR means a Green Power Right under the Green Power Program.

Green Power Program means the National Green Power Accreditation Program as set forth in the *National Green Power Accreditation Program Accreditation Document, Version 2, November 2000* or any successor or similar scheme that evolves or develops as a result of this program.

Meter has the meaning given to that term in clause 8.1.

NEM means the National Electricity Market.

Network Connection Agreement means an agreement between the Distributor and the Generator providing for the connection of the Unit to the Network detailing, amongst other things, the terms and conditions of injection of Export Electricity and the connection and disconnection of the Unit from the Network.

Origin means Origin Energy Electricity Ltd ABN 33 071 052 287.

SPECIAL

ORER means the Office of the Renewable Energy Regulator or its successor.

Quality Requirements are the requirements specified by the Distributor, including, without limitation, the requirements of the Network Connection Agreement.

Quarter means a period of 3 months ending on 31 March, 30 June, 30 September and 31 December in each Year (provided that the first and last such period during the term of this Agreement will be a shorter period commencing on the Start Date and ending on the next of those dates to occur, in the case of the first period, and ending on the End Date in the case of the last).

REC means a renewable energy certificate created under the RE Act.

REC Price means the price specified in schedule 1.

Re Act means the **Renewable Energy (Electricity) Act 2000** (Cth) and the Renewable Energy (Electricity) Regulations 2001.

Start Date means the later of the date specified under schedule 1 and the satisfaction of the preconditions under clause 2.

Supply Address is the address of that description set out in schedule 1.

Unit means a wind energy generation unit classed as a “relevant generation facility” under the EI Act which is owned by the Generator and installed at the Supply Address as further specified under schedule 1, and includes any ancillary electrical equipment.

1.2 Rules for interpreting this document

- (a) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
- (b) A singular word includes the plural, and vice versa.
- (c) A reference to a year is a year commencing on the Start Date and every anniversary thereof and finishing one year later.
- (d) A day is the period of time commencing at midnight and ending 24 hours later.
- (e) A month is a calendar month.

1.3 Multiple parties

If a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party:

- (a) an obligation of those persons is joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or that term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking is given by each of them separately.

2. **PRECONDITIONS**

2.1 Origin has no obligations under this Agreement until the Generator has demonstrated to Origin's satisfaction that:

- (a) the supply of Export Energy in accordance with this agreement complies with Applicable Regulations;
- (b) it has signed a Network Connection Agreement with the Distributor;
- (c) the Distributor has consented to the connection of the Unit to its network and the injection of Export Electricity from the Unit;

- (d) the Unit, as constructed, complies with the Applicable Regulations and the Quality Requirements; and
 - (e) if clause 7 applies, it is registered under the REC Act, the Unit is an “accredited power station” under the REC Act, and it is approved as a “Green Power Generator” under the Green Power Program.
- 2.2 If the Customer has not complied with clause 2.1 by the Deadline Date, then this agreement will be deemed to be terminated.
- 3. ABN WITHHOLDING**
- 3.1 If the Generator does not provide a valid ABN to Origin or return a completed ABN Withholding Form to Origin within 10 Business Days of the Start Date, then Origin will be entitled to withhold tax from any payment made under this Agreement as required by Schedule 1 of the **Taxation Administration Act 1953**.
- 4. SUPPLY OF ELECTRICITY BY THE GENERATOR**
- 4.1 The Generator agrees to supply to Origin all Export Electricity on the terms of this Agreement.
- 4.2 Title to and risk in Export Electricity will transfer to Origin at the Connection Point.
- 4.3 If the Generator takes a supply of electricity from the Network at the Connection Point, the Generator:
 - (a) agrees that the net quantity of Export Electricity shown by the Meter will be deemed to be the quantity supplied under this Agreement; and
 - (b) must demonstrate to Origin’s reasonable satisfaction that it has entered into a legally enforceable arrangement with its supplier of electricity under which that supplier agrees that if the meter shows a net quantity of Export Electricity in respect of a Quarter, that quantity is, subject to clause 8, deemed to have been supplied under this Agreement and the supplier has no claim against Origin in respect of that supply.
- 5. SUPPLY OBLIGATIONS**
- 5.1 The Generator will supply Origin with Export Electricity at the Generator Supply Voltage and in accordance with the Quality Requirements. The Generator must ensure that variations in voltage and frequency do not exceed the levels required by any Applicable Regulations.
- 5.2 The Generator must supply the Export Electricity at the Connection Point. Where the Export Electricity supplied is a low voltage, the amount of electricity supplied will be adjusted for LV/MV transformer losses.
- 5.3 If the Generator wishes to materially modify or expand the capacity of or otherwise materially change the Unit, the Generator must obtain Origin’s prior written approval to that modification, expansion or change.
- 5.4 The Generator must at all times be a party to a Network Connection Agreement and comply with its terms.
- 5.5 The Generator must comply with all obligations imposed on the Generator by the Applicable Regulations and Quality Requirements. The Generator must make itself aware of these obligations.
- 5.6 The Generator must install, maintain and operate the Plant so as not to cause or be likely to cause any damage or loss to Origin or any third party, and only allow appropriately qualified people to perform work on the Unit.
- 6. ELECTRICAL EQUIPMENT**
- 6.1 The Generator must give Origin an opportunity to satisfy itself that the electrical equipment at the Supply Address complies with the Applicable Regulations.

- 6.2 Origin carries out this work for its own purposes. The Generator must not rely on Origin's conclusions, and Origin will not be liable for any damage or loss caused by any fault or inadequacy in the equipment.

7. RENEWABLE ENERGY

- 7.1 This clause 7 will only apply if a REC Charge is specified in Schedule 1.
- 7.2 The Generator agrees to sell and Origin agrees to buy all of the RECs produced from the operation of the Unit.
- 7.3 In consideration of payment of the REC Price by Origin to the Generator, Origin will be entitled, without further payment to the Generator, to all GPRs, credits, permits, rights, instruments, accreditations or benefits whatsoever (or in the event such thing or matter cannot be transferred or assigned to Origin then to receive any benefit which the Generator derives from such thing or matter) arising from:
- (a) the operation of the Unit, including such operation reducing greenhouse gas emission (including without limitation reducing greenhouse gas emission associated with the generation of electricity); or
 - (b) the generation of electricity from the Unit, including such generation being fuelled from a renewable source.
- 7.4 As soon as practicable after the end of each Quarter, the Generator must transfer RECs and GPR to Origin at which the Generator is entitled to create in respect of Export Electricity supplied in that Quarter. At the same time, as transferring the RECs, or GPR to Origin, the Generator must provide Origin with written notice setting out the date of generation to which the relevant RECs, or GPR relate.
- 7.5 The Generator will notify Origin via email as soon as practical whenever RECs are available for transfer, identifying in each instance the number of to be transferred. Origin will within 5 Business Days collect the RECs to be transferred from the relevant on-line registry.
- 7.6 Title to RECs and GPR will transfer to Origin when those RECs and GPR are transferred to Origin.
- 7.7 The Generator undertakes to do all things reasonably necessary (or as required by Origin) to enable Origin to:
- (a) receive its entitlements under this clause 7 or to otherwise receive the benefits provided for under it; and
 - (b) receive the RECs and GPR generated by the Unit (including, without limitation, maintaining the registration, accreditation and approvals referred to in clause 2.1(d).
- 7.8 The Generator warrants and represents that:
- (a) it has not sold, transferred, assigned, licensed or otherwise created any interest in the RECs or GPR generated by the Unit other than that as contemplated in this agreement;
 - (b) it has not assigned, sold, promised or otherwise disposed of or granted the right to create RECs or GPR generated by the Unit to any other person;
 - (c) it has not entered into any agreement or arrangements with a third party having the effect of assigning, selling, promising or disposing of any of the rights or creating any interest in the RECs or GPR generated by the Unit; and
 - (d) it has complied in all respects with the provisions of the RE Act and Green Power Program as they affect this Agreement.

8. METERING

- 8.1 The Generator will be responsible for supplying and installing and maintaining in accordance with Good Operating Practice (at or as near as practicable to the Connection Point) meters for the purpose of measuring and recording on a half hourly basis, the amount of Energy delivered to the Network from the Unit at the Connection Point (the "Meter"). The Meter must comply with all Applicable Regulations, including the National Electricity Rules (if applicable).
- 8.2 The Generator must arrange for:
- (a) reading of the Meter; and
 - (b) providing to Origin copies of Meter data on a monthly basis in electronic form.
- 8.3 Subject to Origin giving the Generator no less than seven days' notice, Origin (or its agent) is permitted to test the accuracy of the Meter. If the Meter is found to be accurate to within $[\pm 1.5\%]$, then Origin will be responsible for the meter testing costs. In any other case, the Generator will be responsible for such costs.
- 8.4 The Generator agrees that, subject to all Applicable Regulations, Origin may make the Meter data available to third parties.
- 8.5 The Meter data must comply with the Applicable Regulations.
- 8.6 The Generator must at all times provide Origin officers, employees and agent and their equipment with safe, convenient and unhindered access to the Meter at the Supply Address or for any purposes associated with the supply, metering or billing of Export Electricity providing that the officers employees or agents produce official identification on request.
- 8.7 If Origin cannot obtain Meter data in respect of the Supply Address, it may determine the amount the Generator supplies to it in a billing period by referring to a previous or a subsequent meter reading at the Supply Address and other matters it reasonably considers relevant.

9. CHARGES

- 9.1 On and from the Start Date, Origin will pay the Generator:
- (a) the Export Energy Charge for Export Energy; and
 - (b) if clause 7 applies, the REC Charge for each REC resulting from the operation of the Unit transferred to Origin.
- 9.2 Unless otherwise provided in this Agreement, the Generator will be responsible for all other charges in respect to of the supply of Energy and the transfer or RECs and GPR to Origin under this Agreement.
- 9.3 The Generator must pay any State or Commonwealth taxes other than GST or charges (including without limitation distribution charges, regulated charges, metering charges, transmission and distribution loss factor charges and any increases to those charges) which are imposed on or become payable by Origin after the date of this agreement in respect of taking a supply of electricity from the Generator (excluding any income or payroll tax) on request from Origin.

10. INVOICING AND PAYMENT

- 10.1 As soon as practicable following the end of each Quarter, the Generator will send to Origin an invoice for:
- (a) the Export Energy exported from the Unit during that Quarter as measured by the Meter; and
 - (b) if clause 7 applies, any RECs transferred to Origin during that Quarter.
- 10.2 The Generator must provide Origin with any such further information as may be reasonably required by Origin to verify amounts claimed as payable to the Generator under this Agreement.

- 10.3 Origin will, subject to clause 10.4 and compliance by the Generator with clause 10.2, pay the full amount specified in the invoice within (14) days of receipt of the invoice.
- 10.4 If Origin reasonably believes an invoiced amount to be incorrect, it will pay that part of the invoiced amount which is not in dispute and will provide the Generator with a statement of its reasons for disputing the invoice. Any dispute under this clause 10 shall be referred for resolution in accordance with clause 19.
- 10.5 After settlement or resolution of the dispute, any amount agreed or determined to be paid shall be paid by the relevant party at the time payment of the next invoice provided to Origin under clause 10.1 is payable by Origin.
- 10.6 If an invoice issued to Origin is incorrect, the Generator will either make an adjustment to the next invoice or cancel the incorrect invoice and issue a corrected invoice to Origin. Origin will, subject to clause 10.4, pay the full amount specified in the corrected invoice within 14 days of receipt of that invoice.

11. DURATION

This Agreement begins on the Start Date and ends on the End Date, unless earlier terminated in accordance with this Agreement.

12. ENDING THE AGREEMENT

- 12.1 Origin may terminate this Agreement if:
- (a) the Generator becomes insolvent or in Origin's opinion shows signs of becoming insolvent, immediately on written notice to the Generator; or
 - (b) if the Generator breaches this Agreement and fails to remedy the breach within 10 Business Days of written notice to the Generator requiring it to do so, on written notice to the Generator.
- 12.2 The Generator may terminate this Agreement if:
- (a) Origin becomes insolvent or in the Generator's opinion shows signs of becoming insolvent, immediately on written notice to Origin; or
 - (b) if Origin breaches this Agreement and fails to remedy the breach within 10 Business Days of written notice to Origin requiring it to do so, on written notice to Origin;
- 12.3 The ending of this Agreement does not affect any of the rights of either party accruing prior to the date of termination.

13. INDEMNITY

- 13.1 To the maximum extent permitted by law, the Generator indemnifies Origin and will hold it harmless against all liabilities or claims for any loss or damage or death or injury and all liabilities or claims which Origin may incur to any third party arising out of the supply of electricity to it from the Generator including:
- (a) the Generator or its employees, agents or contractors' failure to comply with any obligation under this Agreement; and
 - (b) the Generator or its employees, agents or contractors' negligent or reckless acts or omissions.
- 13.2 Origin is not liable to the Generator or any person claiming through the Generator for:
- (a) any costs, expenses, loss or damage (whether direct or indirect and howsoever arising), death or injury arising (howsoever arising) from the supply of electricity or failure to supply electricity or any matter not arising in connection with this Agreement; and
 - (b) any indirect, special or consequential loss (including loss of profit, loss of bargain or opportunity or economic loss) arising from or in any way related to a breach of this Agreement by Origin.

14. ASSIGNMENT

The Generator must not novate this Agreement or assign, transfer or deal with its rights under this Agreement or agree to do so without Origin's written consent. Origin may novate, assign, transfer or deal with its rights under this Agreement as it deems fit.

15. WAIVER

Any failure by Origin to exercise any of its rights or powers under this Agreement is not a waiver of those rights or powers.

16. WHOLE AGREEMENT

This Agreement sets out all the terms agreed between the Generator and Origin for the supply of electricity to Origin by the Generator, and the Generator acknowledges that it has not relied on any representation, inducement, warranty or promise which is not contained in it. The parties acknowledge that, if they are parties to any other agreement relating to the supply deals with the supply of electricity to the Generator by Origin, then it is a separate contract to this Agreement.

17. CHANGES TO LAW

17.1 The parties acknowledge that there may be changes to the Applicable Regulations to which the parties are subject. The parties agree that, if in Origin's reasonable view, changes to the Applicable Regulations these materially affect the parties' rights or obligations, Origin may amend this Agreement to take into account those changes.

17.2 In this Agreement, unless the context otherwise requires, a reference to any law, code or regulatory instrument is a reference to that law, code or regulatory instrument as amended or replaced from time to time.

18. NOTICES

Any notice or written communication given under this Agreement must be given to the address specified in Schedule 1 from time to time for this purpose by the party to whom the notice or communication is given.

19. DISPUTES

If any dispute arises between the parties under or in relation to this agreement which the parties are unable to resolve within 14 days of one party giving notice of the dispute to the other then either party may require the matter to be resolved in accordance with the **Commencement Arbitration Act 1984** (Vic).

20. GST

20.1 Notwithstanding any other provision in this Agreement, if the Supplier is or becomes liable to pay **GST** in connection with any Supply:

- (a) the Recipient must pay to the Supplier, in addition to the Agreement Price, an additional amount equal to the amount of that **GST**;
- (b) the Recipient must pay the Agreement Price plus the additional amount on account of **GST** within 14 days of receiving a **tax invoice** from the Supplier for that Supply or as otherwise provided in this Agreement;
- (c) If the GST payable in relation to a Supply made under or in connection with this Agreement varies from the additional amount paid or payable by the Recipient under paragraph (a) such that a further amount of GST is payable in relation to the Supply or a refund or credit of GST is obtained in relation to the Supply, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this paragraph is deemed to be a payment, credit or refund of the additional amount payable under paragraph (a). If an **adjustment event** occurs in relation to a Supply, the Supplier must issue an **adjustment note** to the Recipient in relation to that Supply within 14 days after becoming aware of the adjustment;

- (d) where a party reimburses the other party for an expense or other amount incurred in connection with any wholly or partly ***creditable acquisition*** or any wholly or partly ***creditable importation*** made by that other party, the amount reimbursed shall be net of any ***input tax credit*** claimable in respect of that acquisition or importation (as the case may be);
- (e) the parties agree to make any changes, which in the reasonably held opinion of Origin Energy are required to this clause to reflect any changes in the ***GST law***.

In this clause, all italicised and emboldened terms, have the same meaning as in the **A New Tax System (Goods and Services Tax) Act 1999** and in the ***GST law***.

In addition:

“Agreement Price” means the consideration to provided under this Agreement for the Supply (other than under this clause);

“Recipient” means the party that receives the Supply from the Supplier;

“Supplier” means the party that provides the Supply to the Recipient and includes the ***representative member*** of the ***GST Group*** if the Supplier is a member of a ***GST Group***;

Supply means any ***supply*** to the Recipient by the Supplier pursuant to this Agreement. However, if the GST law treats part of a ***supply*** as a separate ***supply*** for the purpose of determining whether GST is payable on that part of the ***supply*** or for the purpose of determining the tax period to which that part of the ***supply*** will be attributable, such part of the ***supply*** will be treated as a separate ***supply*** for the purposes of this clause.

Schedule 1

1. Generator Name:
2. Supply Address:
3. Address for Notices: [If different from the Supply Address]
4. Start Date: [Note – Start Date is the later of the date specified and the date of installation of the Unit.]
5. End Date: [Note – 3 years after Start Date]
6. Unit (Size in kW):
7. Distributor:
8. Export Energy Charge: \$20 (excluding GST)
9. REC Charge: \$20 (excluding GST)
10. Deadline Date: [Note – 90 days from the Start Date]
11. Notification Address:
 Manager Settlements
 Energy Risk Management
 Origin Energy
 Level 45, 264–278 George Street, Australia Square, Sydney NSW, 2001
 Fax No: 02 92521455

Schedule 2
(ABN Withholding Form)

Statement by a supplier



Australian Taxation Office

Reason for not quoting an Australian Business Number (ABN) to an enterprise

[illegible]

Under the Pay As You Go legislation and guidelines produced by the Australian Taxation Office I provide you with a written statement that, for the supply I am making and further supplies of this type that I make to you:



Tick the appropriate box

The supply is made to you in my capacity as an individual, and the supply is made in the course of an activity that is a private recreational pursuit or hobby	<input type="checkbox"/>
The supply is made to you in my capacity as an individual, and the supply is wholly of a private or domestic nature for me	<input type="checkbox"/>
I (or the supplier that I represent) am/is a non-resident who is not carrying on an enterprise in Australia	<input type="checkbox"/>
The whole of the payment that I (or the supplier that I represent) will receive for the supply is exempt from income tax	<input type="checkbox"/>
I (or the partnership that I represent) have no reasonable expectation of profit or gain from the activity undertaken and consider that I (or the partnership that I represent) do not meet the definition of enterprise for tax purposes	<input type="checkbox"/>

Therefore, I am not quoting you an ABN. You should not withhold an amount from the payment you make to me for the supply. I agree to advise you in writing if circumstances change to the extent that this statement becomes invalid.

Name of authorised person (if not the supplier)		
Signature of supplier or authorised person		Date <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Daytime contact phone number	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	It is an offence to make a false or misleading statement

The person/entity to whom this statement is made should retain the statement for 5 years

This Agreement dated

Signed for and on behalf of
Origin Energy Electricity Ltd
ABN 33 071 052 287
by its duly authorised officer:

Signed by the Generator

Signature of officer

Signature of Generator

Name of officer

Name of Generator

Position of officer

Signature of witness

Signature of witness

Name of witness

Name of witness

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