

Dated

2011

(1) Waverley Borough Council

(2) [NAME OF OCCUPIER]

Solar Agreement

relating to [ADDRESS OF PROPERTY]

THIS AGREEMENT is made on

Date

between:

(1) the Landlord Waverley Borough Council whose offices are situated at Council Offices, The Burys, Godalming, Surrey, GU7 1HR and

(2) You [NAME OF OCCUPIER ENTERING INTO THIS AGREEMENT] of [ADDRESS] and You shall be construed accordingly

BACKGROUND

You live in Your Home under a tenancy agreement granted by the Landlord to You.

The purpose of this Agreement is to allow the Landlord and the Solar Tenant to install solar panels on the roof of Your Home.

The Landlord, under a separate agreement, is granting the Solar Tenant a lease over the airspace above Your Home (referred to as the Solar Premises in this Agreement - see the "Definitions" section).

This Agreement changes the terms of Your Tenancy Agreement and gives certain rights to the Solar Tenant so that it can install and retain the PV System in/on Your Home.

You can use the electricity generated by the PV System for free and if there is any extra electricity which You do not use, the Solar Tenant will export this to the national grid.

This Agreement also gives the Solar Tenant the sole right to receive the benefit of any payments for generating electricity and exporting electricity to the grid (referred to as the Feed in Tariff Payments in this Agreement - see the "Definitions" section).

Once You have signed this Agreement the Landlord will not date it and the Agreement will not come into force for at least seven days. If You change Your mind about proceeding with the installation please contact the Solar Tenant saying so [set out contact details]. Within that seven day period this Agreement will not be dated

and will not come into force. You will have no liabilities under it and no solar panels will be installed.

DEFINITIONS

- Feed in Tariff Payments**
- (a) any benefits arising as a result of the PV System being connected to the grid and any environmental (including carbon credits and carbon reduction benefits) or renewable benefits (including feed in tariffs) relating to the PV System (including any monetary payments, allowances, entitlements or credits of any nature from time to time);
 - (b) any payments arising as a result of supplies of electricity which are generated by the PV System and exports of electricity to the grid; and
 - (c) any revenue generated by the Solar Tenant in relation to the PV System
- Your Home** the property You live in pursuant to Your Tenancy Agreement
- Your Tenancy Agreement** the tenancy agreement dated [TSD[]] of Your Home and granted to You by the Landlord
- PV System** photovoltaic modules and fixings and any ancillary equipment including inverters meters monitoring equipment associated works and cabling and other media together with the conduits containing them placed upon and in Your Home and including all alterations, improvements and additions made from time to time
- Solar Lease** a lease of the airspace above the roof of Your Home [to be] entered into between the Landlord and [SPV] [and dated []]
- Solar Premises** the airspace above the roof of Your Home which is [to be] leased to the Solar Tenant by the Solar

Lease

Solar Tenant

the current tenant from time to time of the Solar Lease

In this Agreement:

- references to the Landlord, You and the Solar Tenant include their respective successors in title and, in the case of individuals, include their personal representatives;
- references to the Solar Premises and Your Home include any part of them unless specific reference is made to the whole of them;
- “including” means “including, without limitation”;
- all of the rights granted to the Solar Tenant can be exercised by the Solar Tenant’s lessees, employees, contractors, agents, licensees and all other persons authorised by the Solar Tenant;
- any agreement by You not to do any act or thing includes an agreement not to allow the doing of that act or thing;
- where two or more people form a party to this Agreement, the obligations they undertake may be enforced against them all jointly or against each of them individually; and
- if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Agreement is to be unaffected.

OPERATIVE PROVISIONS

1. PV System ownership, generation of electricity and Feed in Tariff Payments

- 1.1 You acknowledge that all parts of the PV System are the property of the Solar Tenant and any part of the PV System installed within or on Your Home are the Solar Tenant's fixtures and are not part of Your Home.
- 1.2 You shall use your best efforts to ensure that the Solar Tenant has the right to receive any Feed in Tariff Payments. This may include signing documents with an electricity or transmission/distribution company or the governing or regulatory body who decides or administers who is allowed to benefit from Feed in Tariff Payments, confirming that the Solar Tenant is entitled to Feed in Tariff Payments, not You.
- 1.3 Any electricity generated by the PV System (which shall be deemed to exclude any electricity that the PV System itself needs or consumes) may be used by You within Your Home as it is generated. Any electricity that You do not use shall be the sole property of and be exported to the grid for the sole benefit of the Solar Tenant.
- 1.4 In order for the PV System to produce electricity that You can use, part of the PV System called the inverter may need to receive a small amount of electricity through the electrical cabling and installation serving Your Home. You agree that there will be no charge payable by the Landlord or the Solar Tenant to You in this regard.
- 1.5 You should note that if Your electricity is disconnected or cut off as a result of Your actions You will breach 4.1 below and the Landlord will have a potential claim against You.

2. Rights granted to the Solar Tenant

You grant the following rights over Your Home for the benefit of the Solar Tenant and the Solar Premises:

- 2.1 the right to install, keep, maintain, inspect, take meter readings, repair, alter, replace, upgrade, clean and remove the PV System in and on Your Home (including the right to attach the PV System to Your Home and remove any part or the whole of the PV System from Your Home);

- 2.2 the right to change the position of any part of the PV System in or on Your Home with Your prior consent, which You agree not to unreasonably withhold;
- 2.3 the right to use the access to and through Your Home for access to and from the Solar Premises so that the Solar Tenant can exercise the rights mentioned in **clause 2.1** above and in order to comply with the Solar Tenant's obligations under the Solar Lease;
- 2.4 the right to connect into, use and alter and receive electricity through the existing electrical cabling and installations within Your Home in connection with the use of the Solar Premises for the generation of electricity via the PV System, including exporting electricity to the grid; and
- 2.5 the right to support and protection for the PV System from Your Home.

3. **the Landlord's Obligations**

The Landlord shall use its reasonable endeavours to ensure that the Solar Tenant, in exercising any of the rights listed at **clause 2** above, shall:

- 3.1 except in emergency situations, give 48 hours notice to You of its intention to exercise that right;
- 3.2 cause as little damage as possible to Your Home and to any property belonging to or used by You, other occupiers of Your Home or the Landlord;
- 3.3 cause as little inconvenience as possible to You and any other occupiers of Your Home as is reasonably practicable; and
- 3.4 promptly make good (to the reasonable satisfaction of both You and the Landlord any damage beyond damage to the decoration caused to Your Home (or to any property belonging to You, other occupiers of Your Home or the Landlord) by reason of the Solar Tenant exercising that right.

4. **Your obligations**

- 4.1 You must not interfere with the PV System or the rights granted to the Solar Tenant contained in this Agreement or cause the electricity supply to or from the PV System to be cut off or disconnected.

- 4.2 You must not cause any damage to the PV System.
- 4.3 As soon as You become aware of any damage (however caused) to the PV System or any part of Your Home to which it is attached or in which it is contained, You must inform the Landlord immediately and not attempt to repair the PV System unless the Landlord gives You express permission to do so.
- 4.4 Subject to **clause 4.1** and **4.2**, if You wish to carry out improvements, alterations or additions to any part of Your Home which is close to or next to the PV System or any cables or installations serving the PV System, then You may do so if the Landlord first consents to this in writing, in accordance with Your Tenancy Agreement.
- 4.5 You will not do anything which may interfere with the passage of light to the PV System.
- 4.6 If there are any trees or vegetation in Your garden, You must make sure that they do not grow to interfere with the passage of light to the PV System.
- 4.7 You must ensure that any lodgers or visitors in Your Home and any members of Your household do not breach Your obligations in this Agreement.

5. Landlord's further obligations in respect of the Solar Lease

The Landlord agrees with You to:

- 5.1 notify You if the Solar Lease is terminated or ceases to exist for any reason;
- 5.2 make sure, as far as it reasonably can, that the Solar Tenant connects the PV System to Your Home and keeps it connected so that Your Home can benefit from electricity generated by the PV System. However, the Landlord will not be in breach of this obligation during any period of temporary interference with the PV System, including:
- 5.2.1 if the Landlord needs to carry out any repairs, works or alterations to Your Home;
- 5.2.2 if the Solar Tenant has not fully installed the PV System;

- 5.2.3 if the Solar Tenant has removed the PV System or any part of it from Your Home; and
 - 5.2.4 whilst the Solar Tenant is repairing the PV System or part of it.
- 5.3 notify You if it becomes aware of any damage or destruction to the PV System.

6. **Breach of Your obligations**

- 6.1 Any breach of Your obligations as set out in this Agreement will also constitute a breach of Your Tenancy Agreement so that the Landlord will be entitled to take action under Your Tenancy Agreement including seeking to terminate it.
- 6.2 You will keep the Landlord indemnified against all expenses, costs, claims, damage and loss (including any diminution in the value of the Landlord's interest in Your Home) arising from any breach of Your obligations as set out in this Agreement.

7. **The Solar Tenant's Liability**

- 7.1 You acknowledge that the Solar Tenant will have no responsibility or liability whatsoever, under contract, tort or otherwise in the case of any failure of the PV System or otherwise unless it arises from their obligations referred to in **clause 7.2**.
- 7.2 **Clause 7.1** does not exclude the Solar Tenant's liabilities to You or the Landlord for:
 - 7.2.1 any breach of the Solar Tenant's obligations in this Agreement;
 - 7.2.2 death or personal injury caused by the negligence action or failure to act of the Solar Tenant or anyone working or acting on their behalf; or
 - 7.2.3 any other liability or obligation that the law does not allow to be excluded.

8. **Contracts Rights of Third Parties Act 1999**

You and the Landlord agree that the Contracts (Rights of Third Parties) Act 1999 applies to this Agreement, meaning that the Solar Tenant and, where applicable, the Solar Tenant's contractors, the Solar Tenant's mortgagee/chargee and other persons authorised by the Solar Tenant, may enforce the terms of this Agreement that benefit them.

9. **Your Tenancy Agreement variation**

- 9.1 Your Tenancy Agreement was entered into by the Landlord and You. The Landlord and You are now or remain entitled to the benefit of Your Tenancy Agreement. The Landlord and You agree to the changes below in order to enable the PV System to be installed and used at Your House.
- 9.2 You surrender to the Landlord (and the Landlord accepts Your surrender of) the airspace above the roof of Your Home if and to the extent it is included in Your Tenancy Agreement.
- 9.3 Your Tenancy Agreement is also to be read and interpreted as if:
- 9.3.1 the provisions set out in **Part 1 of Schedule 1** of this Agreement were deleted from Your Tenancy Agreement;
 - 9.3.2 the variations to it in **Part 2 of Schedule 1** of this Agreement were set out in full in Your Tenancy Agreement; and
 - 9.3.3 the provisions set out in **Part 3 of Schedule 1** of this Agreement were inserted into Your Tenancy Agreement.
- 9.4 The amendments to Your Tenancy Agreement made by this Agreement take effect from and including the date of this Agreement.
- 9.5 The terms of Your Tenancy Agreement continue in effect as amended by this Agreement.
- 9.6 This Agreement does not release the Landlord or You from any breaches of Your Tenancy Agreement existing at the date of this Agreement.

10. Your rights and responsibilities under this Agreement may not be transferred by You.
11. Your Tenancy is to be read alongside the terms of this Agreement in so far as it is consistent with the terms of this Agreement, but in the event of any discrepancy between the terms of Your Tenancy and this Agreement, the provisions of this Agreement shall prevail.

12. **Execution**

You and the Landlord have signed it on the date specified on page 1.

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SCHEDULE 1

Variations to Your Tenancy Agreement

PART 1: CLAUSES DELETED

1. The following clauses in Your Tenancy Agreement are deleted:

No clauses are deleted

PART 2: VARIATION OF CLAUSES

2. The following clauses in Your Tenancy Agreement are varied:

1. **Conditions of your tenancy. Section 1 - 1 Your tenancy**

Your tenancy agreement the words “Your tenancy agreement is to be read alongside the terms of the Solar Agreement in so far as it is consistent with the Tenancy Agreement” should be added after the words “This is a legally binding contract between you and us, Waverley Borough Council”

2. **Conditions of your tenancy. Section 1 - 10 Rights of other people**

Part a will be amended to read “Contracts Rights of Third Parties Act 1999 applies under section 6 clauses 9 to 11 (succession) and section 3 clause 12 (transferring the tenancy) and so that the Solar Tenant and, where applicable, the Solar Tenant’s contractors, the Solar Tenant’s mortgagee/chargee and other persons authorised by the Solar Tenant, may enforce the terms of this Agreement that benefit them. Apart from these instance this agreement cannot be enforced by anyone except us, you or your authorised representatives.”

3. **Conditions of your tenancy. Section 3 - Using your home**

Part 1 General Under bullet point k the words “you will not cover or interfere with the inverter in your loft” will be added after “So, if you do decide to use the loft for storage, this is at your own risk,”

4. **Conditions of your tenancy. Section 3 – using your home**

Under section 2 access to your home, part a, the words “you must also give the Solar Tenant the right to use the access to and through your home for access to and from the solar premises so that the solar tenant can install,

keep, maintain, inspect, take meter readings, repair, alter, replace, upgrade, clean and remove the pv system in and on your home (including the right to attach the pv system to your home and remove any part or the whole of the pv system from your home)” should be added after “you must let our staff, contractors or agents into your home to inspect its condition or any fixtures or fittings, or carry out repair, maintenance or improvement work”.

PART 3: ADDITIONAL CLAUSES

3. The following clauses are added to your Tenancy Agreement:

1. **Secure Tenancy Agreement page 4 and 5**

For the avoidance of doubt the words “but excluding the airspace above the roof of the building within the premises” should be added after “Address of property being let” and “Type of property”

2. **Conditions of your tenancy. Section 4 – Looking after your garden**

The following clause will be added as clause 6: “If there are any trees or vegetation in Your garden, You must make sure that they do not grow to interfere with the passage of light to the PV System”.

3. **Conditions of your tenancy. Section 8 – Repairs and maintenance**

Under part 2 – Your responsibilities – the following clauses will be added as clauses g and h:

“g You must not cause any damage to the PV System.

h As soon as you become aware of any damage (however caused) to the PV System or any part of your home to which it is attached or in which it is contained, You must inform us immediately and not attempt to repair the PV System unless the we give you express permission to do so.”

4. **Conditions of your tenancy. Section 10 – When you need our written permission**

Add “Carrying out improvements, alterations or additions to any part of your home which is close to or next to the PV System or any cables or installations serving the PV System” as a final bullet point.

5. Conditions of your tenancy. Section 12 – Definitions

The following definitions will be added to your tenancy agreement

Feed in Tariff Payments

- a) any benefits arising as a result of the PV System being connected to the grid and any environmental (including carbon credits and carbon reduction benefits) or renewable benefits (including feed in tariffs) relating to the PV System (including any monetary payments, allowances, entitlements or credits of any nature from time to time);
- b) any payments arising as a result of supplies of electricity which are generated by the PV System and exports of electricity to the grid; and
- c) any revenue generated by the Solar Tenant in relation to the PV System

PV System

photovoltaic modules and fixings and any ancillary equipment including inverters meters monitoring equipment associated works and cabling and other media together with the conduits containing them placed upon and in Your Home and including all alterations, improvements and additions made from time to time

Solar Lease

a lease of the airspace above the roof of Your Home [to be] entered into between the Landlord and [SPV] [and dated []]

Solar Premises

the airspace above the roof of Your Home which is [to be] leased to the Solar Tenant by the Solar Lease

Solar Tenant

the current tenant from time to time of the Solar Lease



SIGNED by [NAME OF LANDLORD]

SIGNED by [NAME OF OCCUPIER]

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