

Fergus Electric Cooperative Solar Program

MEMBER PARTICIPATION APPLICATION & PURCHASE AGREEMENT

This Agreement (Agreement) is made and entered into by and between Fergus Electric Cooperative, Inc., with its principal place of business at 84423 US Highway 87, Lewistown, Montana and the Member identified as follows:

Member Information (Please Print Clearly):

Member Name: _____

Billing Address: _____

City: _____ State: _____ Zip: _____

Primary Phone No.: _____ Secondary Phone No.: _____

Email Address: _____

Account Number: _____

By completing this (“**Application**”), you have an opportunity to participate in and facilitate the success of the Cooperative Solar Program. You agree to be bound by this Member Participation Application and Purchase Agreement together with the Program **Terms and Conditions** (collectively the “**Agreement**”). All Bylaws, policies and guidelines of Fergus Electric Cooperative are incorporated by reference into the Agreement. This Application is specifically for participation in **Fergus Electric Cooperative Solar Program** located at 84423 US Highway 87, Lewistown, Montana.

Please complete the table below: If a single location is shown on your billing statement, you may leave the location field blank. If your account includes multiple locations and you choose to allocate panels per location, please indicate by including your location information in the fields provided. (The pro-rated energy credit will be distributed as designated). During the Term of this Agreement, Member will receive the kWh output for each solar panel purchased by Member as a credit on the Member’s statement for electricity provided by Fergus Electric Co-op at the designated address and location, which must be located within Fergus Electric Cooperative’s service territory.

SUMMARY			
No. of Solar Panels	Site Location (shown on billing statement)	Prepayment (deposit) of \$250 per panel or Full Payment of \$595 per panel Required	Total No. of Panels x \$Amount = Payment Enclosed
		\$	\$
		\$	\$
		\$	\$
Total No. of Panels	#	Total Paid	\$

Payment

The purchase price is \$595.00 per panel. Please enclose a minimum of \$250.00 per panel as a deposit in Fergus Electric Cooperative’s Solar Program, payable to Fergus Electric Cooperative, Inc. Solar panel(s) must be paid in full to begin receiving energy credits. (Please include your FEC account number on your check for proper processing of your application.)

Transfer/Assignment *(Transfer Fee May Apply)*

Member may request that Fergus Electric: (a) permit Member to change the Service Address for which the production credits will apply to another Service Address within Fergus Electric Cooperative’s service territory for which Member is obligated to pay Fergus Electric for electric service, or (b) permit Member to assign this Agreement to another Fergus Electric Member, being an individual or an entity, provided such assignee’s Service Address is located within Fergus Electric’s service territory. Member must notify Fergus Electric of such proposed change or assignment in writing at least 30 days prior to the proposed effective date of such change or assignment, which notice must include:

1. Member’s name and mailing address;
2. The current Service Address;
3. The new Service Address (if applicable);
4. The name of the individual or entity to whom Member is requesting to assign this Agreement (if applicable) and the consideration (if any) proposed to be provided to Member for such assignment; and
5. The proposed effective date of such proposed change or assignment.

Upon any assignment of this Agreement pursuant to this section, the Member will surrender all right, title and interest in and to this Agreement. No assignment will extend the Terms of this Agreement. The assignee must also sign a Member Participation Application and Purchase Agreement.

Beneficiary *(Transfer Fee May Apply)* Members in Fergus Electric Cooperative Solar Program may choose to name a beneficiary to receive the “energy credits” associated with the purchased panel(s) in the event the Member relocates outside FEC service territory or in the event of the Member’s death. If NO beneficiary is named, “energy credits” associated with purchased panel(s) will be allocated in accordance with Section 6 of the Terms and Conditions of Fergus Electric Cooperative Solar Program.

- Beneficiary Name: _____ Number of Panels: _____
Address: _____ City: _____ State: _____ Zip: _____
- Beneficiary Name: _____ Number of Panels: _____
Address: _____ City: _____ State: _____ Zip: _____
- Beneficiary Name: _____ Number of Panels: _____
Address: _____ City: _____ State: _____ Zip: _____

Member Acknowledgements, Authorizations and Warranties

Member expressly acknowledges, agrees to, authorizes, understands and warrants as follows:

- Participation is open to all Fergus Electric Co-op members, on a first come first served basis. Members must meet the Eligibility Requirements contained in Section 2 of the Terms and Conditions.
- Member agrees to the purchase price of \$595.00 per solar panel.
- Member has full power and authority to sign this Agreement.
- Member has not relied upon any information or advice from Fergus Electric Cooperative as to the prudence of Member’s participation in the Program or whether or not the purchase of panel will make Member eligible for any other benefits including, but not limited to tax credits, incentives, or benefits available from the State of Montana or any other governmental agency. Member understands that any questions or concerns about available tax credits, tax benefits, tax liability, incentives, or any other

attributes of Member's participation in the Program, or any term or condition of this Agreement should be raised with Member's tax or legal advisers or the appropriate governmental agencies.

- Member will receive confirmation of participation in the Program via mail within 10 business days of receipt of Application.
- Member has received a complete copy of the **TERMS and CONDITIONS** of **Fergus Electric Cooperative Solar Program**.
- Member has read, understands, accepts and agrees to be bound by ALL TERMS and CONDITIONS of Fergus Electric Cooperative Solar Program.

Member Signature: _____

Print Name: _____

Date: _____

Member Signature: _____

Print Name: _____

Date: _____

Please complete, sign, and mail the application along with your deposit or payment to:

*Fergus Electric Cooperative
Attn: Cooperative Solar Program
84423 US Highway 87
Lewistown, Montana 59457*

**FERGUS ELECTRIC COOPERATIVE SOLAR PROGRAM
TERMS AND CONDITIONS**

Section 1. Definitions

- 1.1 “Account” means a Fergus Electric Cooperative member electric service Account associated with a service address and metered service and Fergus Electric Cooperative Account number.
- 1.2 “Electric Bill” means a bill from Fergus Electric Cooperative for electric service that is metered and billed for the Fergus Electric Cooperative Account number specified on the Application or a successor Account number determined in accordance with the terms of this Agreement.
- 1.3 “Energy Credits” shall have the meaning set forth in Section 6.
- 1.4 “Purchase Price” means the amount specified in Section 3 of this Agreement.
- 1.5 “Force Majeure” means any act of God, labor disturbance, act of the public enemy, war, act of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond Fergus Electric Cooperative’s control. A Force Majeure event does not include an act of negligence or intentional wrongdoing.
- 1.6 “Member” means the person specified as the purchaser on the Application and who has received notification of acceptance into the Program, or a successor Member designated in accordance with Section 7.
- 1.7 “Program” means the solar photovoltaic electricity generating facilities being developed and operated by Fergus Electric Cooperative, Inc. at 84423 US Highway 87, Lewistown, Montana.
- 1.8 “Service Address” means the real property located at the address specified on the Application, or a successor Service Address specified in accordance with the terms of this Agreement.
- 1.9 “Solar Panel” or “Solar Unit” means 1 of the 324 - 330 watt panels in the Fergus Electric Cooperative Solar Program.
- 1.10 “Term” means the period, not to extend beyond August 31, 2037, after which, in the reasonable and sole determination of Fergus Electric Cooperative, the Program can continue to operate, through the use of commercially reasonable efforts but without the necessity of significant additional capital expenditures, based upon projected costs, economics and other factors determined by Fergus Electric Cooperative to be relevant at that time. Fergus Electric Cooperative’s exercise of such discretion shall bind all Members.
- 1.11 “Renewable Energy Certificates” as specified in Section 8 is a market-based instrument that represents the property rights to the environmental, social and other non-power attributes of renewable electricity generation. Renewable Energy Certificates are issued when one megawatt-hour (MWh) of electricity is generated and delivered to the electricity grid from a renewable energy resource.

Section 2. **Eligibility**

Only Fergus Electric Cooperative members with metered residential or general service account in good standing will be permitted to purchase or own a panel in the Program. Non-metered and lighting-only accounts are not allowed to participate in the Program. Fergus Electric Cooperative may terminate a Member's participation in the Program at any time if Fergus Electric Cooperative determines the Member no longer meets the Eligibility Requirements contained in Section 2.

- 2.1 The Members shall pay for such power and/or energy monthly at rates or on a basis to be determined from time to time in accordance with the Bylaws and contracts entered into between the Cooperative and the Member. The Member shall pay to the Cooperative all other amounts per month, regardless of the amount of electric energy consumed, as shall be fixed by the Board of Directors. The Member shall also pay all amounts owed to the Cooperative as and when the same shall become due and payable.

Section 3. **Purchase Price**

- 3.1 Member agrees to a purchase price of Five Hundred Ninety-Five Dollars (\$595.00) per solar panel.
- 3.2 The purchase price of Member's panel(s) must be paid in full to receive energy credits as defined in Section 5.

Section 4. **Term**

- 4.1 Participation in the Program shall be effective upon confirmation of participation by Fergus Electric Cooperative and shall continue for the remainder of the Term, as defined in Section 1.11 above.

Section 5. **Calculation of the Energy Credits**

The value of the Energy Credits that the Member is entitled to shall be calculated as follows:

- 5.1 Energy Credits are based upon the pro rata share of the number of kilowatt-hours generated by the Member's solar panel(s) as measured and calculated by Fergus Electric Cooperative using metering installed for that purpose and read each month during the Term of the Program. Fergus Electric Cooperative will calculate the solar panel kWh output credit by dividing the total power output of the Cooperative Solar Array by the number of solar panels in the array.
- 5.2 The Energy Credits shall be applied at \$0.10 per kWh produced by the member's solar panel(s) against total kWh charges on each Member's electrical bill each month. Example: (Cooperative Solar: 3 panels x 30 kWh = 90 kWh x \$0.1000 = \$9.00 credit)
- 5.3 Energy Credits can only be used to offset kilowatt-hour charges.
- 5.4 Energy Credits shall not be paid out in cash by direct payment to the Member. If a Member fails to use all of its Energy Credits during a billing period, the unused credits will be banked and be available to offset the Member's power usage during future billing periods. Any banked Energy Credit shall be carried forward on Member's account, until such credit is used or account is terminated in accordance with Section 6.

Section 6. Permissible Transfer of Solar Panel(s) Upon Termination of Participation

The Energy Credits shall be applied throughout the Term to the Member's electric account at the Fergus Electric Cooperative account number and Service Address specified on the Application.

- 6.1 If a Member terminates the Fergus Electric Cooperative Account to which Cooperative Solar benefits have been assigned, or if a Member's account is terminated due to the Member's failure to maintain the account in good standing, all prospective rights and benefits associated with Member's Solar Units shall:
 - 6.1.1 Remain with same Member at another Fergus Electric Cooperative Account at a location within Fergus Electric Cooperative's service territory; or *(Transfer Fee May Apply)*
 - 6.1.2 Transfer to designated beneficiary, with a Fergus Electric Cooperative Account that meets eligibility requirements specified in Section 2. The successor Member will receive all prospective rights and benefits associated with the assigned Solar Unit(s), including any banked Energy Credits accrued. A successor Member may transfer their Solar Units under section 6.1.1, or to subsequent successor Members under this section 6.1.2. Energy Credits will not be paid directly to the Member. Energy Credits may only be used to offset billing for energy use as defined in this policy; or *(Transfer Fee May Apply)*.
 - 6.1.3 Revert to Fergus Electric Cooperative after a period of one (1) year:
 - a) If a Member terminates the Fergus Electric Cooperative Account to which Cooperative Solar benefits have been assigned; or
 - b) If a Member's Account is terminated due to the Member's failure to maintain the account in good standing; and
 - c) The Member thereafter fails to effectively transfer ownership of the panel to another eligible account or eligible Member prior to terminating the Member's ownership of the panel.

Section 7. No Other Transfer or Pledge of Solar Panel(s)

Member may NOT pledge the Solar Panel(s) as security for any loan. Except as expressly provided in Section 6 above, Member may not assign, gift, bequeath or otherwise transfer any Solar Unit(s) to any other individual or entity.

Section 8. Ownership of Environmental Attributes

Fergus Electric Cooperative retains ownership of environmental attributes of any kind, including renewable energy certificates (RECs) that may be associated with the Member's Solar Unit(s).

Section 9. Disclaimer of Warranties

Member acknowledges that, except to the extent specifically stated herein, Fergus Electric Cooperative, Inc. has NOT made any representation, warranty or promise with respect to any aspect of the performance, condition, value, risks or likelihood of success of the Program or the Solar Units(s) for which the Member has applied herein. MEMBER ACKNOWLEDGES AND AGREES THAT THE SOLAR PANEL(S) PURCHASED BY THE MEMBER ARE MADE AVAILABLE AS IS, WHERE IS, AND WITHOUT WARRANTY OF ANY KIND. ANY WARRANTIES, EXPRESS OR IMPLIED, ARISING BY OPERATION OF LAW OR OTHERWISE ARE HEREBY DISCLAIMED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR OTHERWISE.

Section 10. No Effect on Electric Rates and Tariffs

Nothing in this Agreement shall be deemed to alter or modify any rate, charge or condition of service (including any policies, fees, charges or assessments) established from time to time by Fergus Electric Cooperative for electric service. All such rates and charges shall remain subject to change at any time. Member acknowledges and agrees that the Electric Bill to which the Energy Credit is associated with the Member's Solar Panel(s), shall reflect those rates and charges established or changed from time to time by Fergus Electric Cooperative. Participation in the Program shall not give Member any increased or augmented right to contest or otherwise affect the determination of any rates or charges by Fergus Electric Cooperative for electric services.

Section 11. Operation and Control of the Program

Member understands and agrees that Member's acquisition of ownership of a solar panel in the Program pursuant to this Agreement does not give Member any right to operate or control the Program or any portion of it. Fergus Electric Cooperative will have sole control of the Program, and will have the exclusive right and discretion to maintain and operate such Program.

Section 12. Access to Solar Equipment at the Program

Member will not have access to the solar electricity generating, interconnection, metering, data acquisition or other related solar equipment of the Program for any purpose, unless otherwise agreed to in writing in advance by Fergus Electric Cooperative. Such access may be withheld or granted in Fergus Electric Cooperative's sole discretion.

Section 13. No Refund of Purchase Price

Member understands that the purchase Price set forth above represents Fergus Electric Cooperative's best estimate of the cost of the Cooperative Solar Program and is not intended to provide a return on investment to the Cooperative. Fergus Electric Cooperative shall have no obligation to refund all or any portion of the Purchase Price at any time or for any reason.

Section 14. Notice

Except for Fergus Electric Cooperative confirmation of participation to Purchaser by mail, all notices, requests, consents, and other communications under this Agreement will be in writing to the mailing address for Fergus Electric Cooperative set forth below and the Member's Service Address set forth above unless a different mailing address is provided by Member in the application portion of this Agreement.

Section 15. Binding Effect

This Agreement shall bind and insure to the benefit of the Member and Fergus Electric Cooperative and their permitted successors and assigns.

Section 16. No Third-Party Beneficiaries

This Agreement is intended solely for the benefit of the Member and Fergus Electric Cooperative. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person or business entity not a party to this Agreement.

Section 17. No Waiver

Neither the Member's, nor Fergus Electric Cooperative's failure to enforce any right or obligation with respect to any matter arising in connection with this Agreement shall constitute a waiver as to that matter or any other matter. If a party at any time waives its rights with respect to a default under this Agreement or any other matters arising in connection with this Agreement, the waiver shall not be effective unless it is set forth in a written notice signed by the waiving party. A waiver with respect to one default or matter shall not be a waiver of any other default or matter.

Section 18. Governing Law/Jurisdiction/Venue

This Agreement shall be deemed to have been made in, and shall be construed under, the laws of the State of Montana. The parties acknowledge and agree that the Tenth Judicial District Court, located in Fergus County, Montana shall have exclusive jurisdiction and venue in any action or proceeding arising under or relating to this Agreement.

Section 19. Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writings and all other communications between the parties. This Agreement may only be modified by the Board of Trustees for the mutual benefit of the Member and Fergus Electric Cooperative and such modification must be delivered to all Members in writing.