

## **KOOTENAI ELECTRIC COMMUNITY SOLAR PROGRAM APPLICATION & AGREEMENT**

Thank you for your interest in the Kootenai Electric Community Solar Program (**Program**). By completing this Application (**Application**), you have an opportunity to participate in the Program. You agree to be bound by the Terms and Conditions (collectively the **Agreement**). All policies and procedures of Kootenai Electric Cooperative (KEC) are incorporated by reference into the Agreement. This Application is specifically for participation in the solar project located at 18182 West Setters Road, Worley, Idaho (**Project**).

### **Payment**

Please enclose a check for the total participation fee payable to KEC. Include your KEC account number on your check for proper processing of your Application and payment.

### **Participant Acknowledgements, Authorizations and Warranties**

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

- Participation is open to all active KEC members, subject to limited availability, and limited to a fixed number of units (not to exceed 5 solar units for any Participant). Participant must meet the Eligibility Requirements contained in Section 2 of the Terms and Conditions.
- Participant has full power and authority to sign this Agreement.
- Participant has not relied upon any information or advice from KEC as to the prudence of participation in the Project, federal tax credits, incentives, state or any other governmental tax incentives. Participant understands that any questions or concerns about available tax credits, tax benefits, tax liability, incentives, or any other attributes of Participant's participation in the Project and Program, or any term or condition of this Agreement, should be raised with Participant's tax or legal advisers or the appropriate governmental agencies.
- Participant will receive confirmation of participation in the Project via email or standard mail within 10 business days of receipt of Application.
- Participant has received a complete copy of the TERMS and CONDITIONS of the KOOTENAI ELECTRIC COMMUNITY SOLAR PROGRAM.
- Participant has read, understands, accepts and agrees to be bound by ALL TERMS and CONDITIONS of the KOOTENAI ELECTRIC COMMUNITY SOLAR PROGRAM.
- Participant hereby releases and shall defend, indemnify and hold harmless KEC, its successors and assigns, and the directors, officers, employees and agents of KEC and its successors and assigns from any and all claims, losses, costs, liabilities, damages and expenses (including, but not limited to, reasonable attorneys' fees) arising out of or in connection with any breach of this Agreement by Participant.

# KOOTENAI ELECTRIC COMMUNITY SOLAR PROGRAM TERMS AND CONDITIONS

## Section 1. Definitions

- 1.1 "Account" means a current KEC member with an active electric service Account associated with a Service Address, metered service and KEC Account number.
- 1.2 "Electric Bill" means a bill from KEC for electric service that is metered and billed for the KEC 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 Sections 5 & 6.
- 1.4 "Participation Fee" means the fee specified in Section 3 of this Agreement.
- 1.5 "Project" means the Kootenai Electric Community Solar Project, a solar photovoltaic electric generating facility developed by KEC, located at 18182 West Setters Road, Worley, Idaho with a maximum possible rated output of 51.8 kilowatts.
- 1.6 "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 KEC's control. A Force Majeure event does not include an act of negligence or intentional wrongdoing.
- 1.7 "Participant" means the person specified as the Participant on the Application and who has received notification of acceptance into the Project, or a successor Participant designated in accordance with Section 7.
- 1.8 "Program" means the Kootenai Electric Community Solar Project operated by KEC.
- 1.9 "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.
- 1.10 "Solar Unit" means a 179.9 watt portion of the Project's electricity generating capacity.
- 1.11 "Term" means the period, not to extend beyond November 1, 2042, during which, in the reasonable and sole determination of KEC, the Project 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 KEC to be relevant at that time. KEC's exercise of such discretion shall bind all Participants.

## Section 2. Eligibility

KEC members with active, metered residential, commercial, irrigation or general service accounts in good standing will be permitted to enroll in the Project or to remain enrolled in the Project. Non-metered and lighting accounts are not eligible to participate in the Program or Project. KEC may terminate a Participant's participation in the Project at any time if KEC determines the Participant no longer meets the Eligibility Requirements contained in Section 2.

## Section 3. Participation Fee

Participant agrees to pay a Participation Fee of Four Hundred Seventy-Five Dollars (\$475.00) per Solar Unit selected by Participant and approved by KEC. Participant must pay the entire Participation Fee in full by check. Participation Fee shall be submitted along with the Kootenai Electric Community Solar Program Participation Application & Agreement. KEC must grant approval prior to the Participant accumulating any benefits from the Program.

## Section 4. Term

Participation in the Project shall be effective upon confirmation of participation by KEC on the date shown in the confirmation notice, which shall be mailed or emailed to the Participant and will continue for a period through November 1, 2042, subject to early termination as described in Section 1.11 or Section 7. KEC ANTICIPATES BUT DOES NOT GUARANTEE that the Term of the Project will extend through November 1, 2042.

### Section 5. **Energy Credits**

In consideration of the Participation Fee paid by the Participant, and subject to all the terms and conditions set forth herein, the Participant named in this Agreement shall receive Energy Credits in the form of kilowatt hours (kWh) on their monthly KEC electric bill. The monthly Energy Credit shall be determined as described herein.

### Section 6. **Calculation and Valuation of Energy Credits**

Energy Credits and the value shall be calculated as follows:

- 6.1 Energy Credits shall be determined and posted to member Accounts each month. Actual energy production from the entire solar array shall be divided equally into the total number of solar units (288 units). Members shall receive Energy Credits based on the actual production of the solar array according to the number of shares they own.
- 6.2 Value of Energy Credits shall be determined by multiplying the number of Energy Credits (kWhs) accumulated by the billing rate for the Participant Account at the time the Energy Credits are posted to the member Account. Note, there is no secondary market for Energy Credits and KEC will not buy back Energy Credits. Unused Energy Credits shall accumulate on the member Account and will offset future energy use. In the event a Participant terminates their KEC service and their Account becomes in-active, any unused Energy Credits will be forfeited or, at the member's discretion, may be transferred to another active KEC member Account.

### Section 7. **Permissible Transfer of Solar Unit(s) Upon Termination of Participation**

Except as provided in this Section 7, and except as such amount is paid as described in Section 3, the Energy Credits described in Section 5 and Section 6 and all other benefits associated with Participant's Solar Unit(s) shall be applied throughout the Term to the Participant's electric Account at the KEC Account number and Service Address specified on the Application.

- 7.1 Termination of KEC Account to which Community Solar benefits have been assigned: All prospective rights and benefits associated with Participant's Solar Units shall revert to KEC, without payment by KEC, unless Participant notifies KEC thirty (30) days prior to such termination with a request to transfer the Solar Units to:
  - 7.1.1 The same Participant at a new KEC Account or a new Service Location; OR
  - 7.1.2 To a successor Participant with a KEC Account that meets eligibility requirements specified in Section 2. The successor Participant will receive all prospective rights and benefits associated with the assigned Solar Unit(s), including the Energy Credits payable following the date of termination of the previous Participant. A successor Participant must be approved by KEC prior to the transfer of any Solar Units. Successor Participant may transfer their Solar Units as defined under section 7.1.1 and 7.1.2 thereafter.
- 7.2 In the event Participant terminates KEC Account to which Community Solar benefits have been assigned and no longer maintains an active account(s) with KEC, KEC will repurchase the Solar Units at a prorated amount as defined in Schedule A. Energy Credits accumulated on a member Account will not be included in the unit repurchase. Participant shall provide KEC (30) days notice of such request. Requests for unit repurchase shall be contingent on KECs approval of said request.

### Section 8. **No Other Transfer or Pledge of Solar Unit(s)**

Participant may NOT pledge the Solar Unit(s) as security for any loan. Except as expressly provided in section 7, above, Participant may not assign, gift, bequeath or otherwise transfer any Solar Unit(s) to any other individual or entity.

### Section 9. **Participant Ownership of Environmental Attributes**

- 9.1 KEC grants ownership of environmental attributes of any kind, including renewable energy credits that may be associated with the Participant's Solar Unit(s) to the Participant.
- 9.2 In addition to the limitation set forth in Section 8, above, Participant may not certify or transfer any environmental attributes generated by the Community Solar Project.

### Section 10. **Disclaimer of Warranties**

Participant acknowledges that, except to the extent specifically stated herein, KEC 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 Project, Program or the Solar Unit(s) for which the Participant has applied herein. PARTICIPANT

ACKNOWLEDGES AND AGREES THAT THE SOLAR UNIT(S) ENROLLED IN BY THE PARTICIPANT 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 11. 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 KEC for electric service. All such rates and charges shall remain subject to change at any time. Participation in the Program shall not give Participant any increased or augmented right to contest or otherwise affect the determination of any rates or charges by KEC for electric service.

**Section 12. Ownership of the Kootenai Electric Community Solar Project**

KEC will have sole ownership, possession and control of the Project, and will have the exclusive right and discretion to maintain and operate such Project. Participation in the Project does not and shall not be construed to convey any right, title or interest in or to any portion of any property (tangible or intangible, real or personal) underlying or comprising any portion of the Project or its associated equipment or improvements, or any equipment of KEC.

**Section 13. Access to Equipment at the Project**

Participant will not have access to the solar generating, interconnection, metering, data acquisition or other related equipment at the Project for any purpose, unless otherwise agreed to in writing in advance by KEC. Such access may be withheld or granted in KEC's sole discretion. Participant shall be provided access to the energy production data through KEC's website.

**Section 14. Refund of Participation Fee**

With exception to the provision outlined in Section 7.2, KEC shall have no obligation to refund all or any portion of the Participation Fee.

**Section 15. Notice**

Except for KEC confirmation of participation to Participants by email or standard mail, all notices, requests, consents, and other communications under this Agreement shall be in writing to the mailing address for KEC set forth in this agreement and the Participant's mailing address as set forth in this Agreement.

**Section 16. Binding Effect**

This Agreement shall bind and inure to the benefit of the Participant and KEC and their permitted successors and assigns.

**Section 17. No Third Party Beneficiaries**

This Agreement is intended solely for the benefit of the Participant and KEC. 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 18. No Waiver**

Neither the Participant's nor KEC'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 19. Governing Law/Jurisdiction/Venue**

This Agreement shall be deemed to have been made in, and shall be construed under, the internal laws of the State of Idaho, without regard to the principles of conflicts of laws thereof. The parties acknowledge and agree that a court of competent jurisdiction located in Kootenai County, Idaho, shall have exclusive jurisdiction in any action or proceeding arising under or relating to this Agreement.

**Section 20. 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 not be released, discharged, or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

Schedule A.

**Solar Unit Repurchase Schedule**

<b>Year</b>	<b>Price/Unit</b>
1	\$456.00
2	\$437.00
3	\$418.00
4	\$399.00
5	\$380.00
6	\$361.00
7	\$342.00
8	\$323.00
9	\$304.00
10	\$285.00
11	\$266.00
12	\$247.00
13	\$228.00
14	\$209.00
15	\$190.00
16	\$171.00
17	\$152.00
18	\$133.00
19	\$114.00
20	\$95.00
21	\$76.00
22	\$57.00
23	\$38.00
24	\$19.00
25	\$0.00

