

Subsidy Terms

www.energymining.sa.gov.au

1 Introduction

1.1 Purpose and Scope

These are the terms and conditions that apply to each Applicant (whether or not they are granted a Subsidy).

By submitting an application for a Subsidy, an Applicant confirms that they have read these Terms and agrees to be bound by these Terms.

1.2 Modifications

The SA Government reserves the right to modify, supplement or replace these Terms at any time in its absolute discretion.

An Applicant is responsible for remaining aware of the provisions of these Terms and any modifications to these Terms.

An Applicant will be deemed to have accepted and agreed to any such modified Terms on and from the time those modified Terms have been Published by the SA Government and/or provided to the Applicant.

1.3 Version Release History

Version	Effective Date	Summary of Changes
1.0	29 October 2018	First Issue
1.1*	15 January 2020	Inclusion of provision for "New Builds"

* Current Version

1.4 Definitions

The following definitions apply in this document, unless the context requires otherwise:

Applicant means a person who applies for a Subsidy.

Contractor means any person engaged by the SA Government to assist with the administration of Subsidy Scheme Matters.

Customer Eligibility Criteria means the criteria which a person is required to satisfy in order to be eligible to be granted a Subsidy, as Published by the SA Government (and varied by the SA Government in its absolute discretion from time to time).

Customer Site Criteria means the criteria which a proposed site for installation of Eligible Equipment is required to satisfy in order for the Eligible Customer procuring that installation to be eligible to be granted a Subsidy, as Published by the SA Government (and varied by the SA Government in its absolute discretion from time to time).

Eligible Customer means a person who satisfies the Customer Eligibility Criteria.

Eligible Equipment means energy storage systems and ancillary equipment which meet the Equipment Eligibility Criteria.

Eligible Site means an installation site which meets the Customer Site Criteria.

Eligible Supply means the supply and/or installation by a Qualified System Provider of Eligible Equipment at an Eligible Site for an Eligible Customer.

Equipment Eligibility Criteria means the criteria for energy storage systems and ancillary equipment, the supply and installation of which may entitle an Eligible Customer to be granted a Subsidy, as Published by the SA Government (and varied by the SA Government in its absolute discretion from time to time).

New Build means the construction of a new approved residential premises within South Australia aligning with existing scheme criteria, whether such construction has commenced or is yet to commence.

Publish means publish on the website at homebatteryscheme.sa.gov.au.

Qualified System Provider means any person who has obtained Qualification.

Qualification means permission by the SA Government and its Contractors to receive Subsidies granted to its customers.

Responsible Parties means, in relation to a person, that person's directors, officers, employees, agents, consultants, contractors and related bodies.

SA Government means the Minister for Energy and Mining for and on behalf of the Crown in right of the State of South Australia.

Subsidised Equipment means energy storage systems and ancillary equipment installed at a site and for which an Applicant has been granted a Subsidy.

Subsidy means a subsidy under the Subsidy Scheme.

Subsidy Purpose means in and towards payment for the acquisition of an Eligible Supply.

Subsidy Scheme means the South Australian Home Battery Subsidy Scheme launched in 2018.

Subsidy Scheme Matters means these Terms, the terms and conditions applying to Qualified System Providers (including those imposed by the SA Government's Contractors), Qualifications (including eligibility criteria, application and assessment for Qualification), quotations and Eligible Supplies by Qualified System Providers, and the Subsidy Scheme (including eligibility criteria, application and assessment for Subsidy payments).

Terms means these terms and conditions, as varied by the SA Government in its absolute discretion from time to time.

2 SA Government Discretion

Notwithstanding any other document, terms, conditions, statement or representation (written or otherwise) to the contrary, each Applicant acknowledges and agrees that:

- (a) the SA Government has absolute discretion in relation to Subsidy Scheme Matters including:
 - (i) *in relation to the implementation and operation of the Subsidy Scheme and may discontinue, suspend or modify the Subsidy Scheme at any time;*
 - (ii) *to suspend or revoke a Qualified System Provider's Qualification at any time; and*
 - (iii) *in relation to the eligibility for any Subsidy, the payment of any Subsidy, the amount of any Subsidy, and the timing and order of any Subsidy payments.*

- (b) an application for a Subsidy (or quotation procured from a Qualified System Provider) confers no right or expectation on the Applicant to be considered for, or granted, any Subsidy, and to the extent that an Applicant has any right to receive a Subsidy, such right is non-transferable.
 - (c) Neither the SA Government nor its contractors are involved in the process of system selection, assessment of site suitability or installation, each of which processes is undertaken solely by Qualified System Providers. An Applicant is solely responsible for selecting a Qualified System Provider satisfactory to the Applicant and for satisfying itself its property is suitable for the installation of a system. Neither the SA Government nor its contractors gives any warranty as to the standard of care or process that will be undertaken by a Qualified System Provider in conducting a quotation or assessment suitability of an Applicant for an Eligible Supply.
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3 Qualified System Providers

Each Applicant acknowledges that:

- (a) the admission of a person as a Qualified System Provider simply allows that person to receive Subsidies granted to its customers and does not indicate in any way that the SA Government or any of its Contractors:
 - (i) *recommends or endorses the business, products or services of the Qualified System Provider;*
 - (ii) *guarantees the performance of the Qualified System Provider or its products or services; or*
 - (iii) *represents that the Qualified System Provider or its products or services are of a certain standard, quality or value; and*
 - (b) a Qualified System Provider is in no respect a contractor, agent, employee or representative of the SA Government and has no authority to incur any debt, liability, or obligation, or to make commitments, on behalf of, or otherwise represent, the SA Government for any purpose.
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4 Eligibility

To be eligible for a Subsidy, a person must satisfy the Customer Eligibility Criteria and have the Eligible Supply installed in accordance with the Customer Site Criteria.

5 Application

An application for a Subsidy must be made by such means as Published by the SA Government from time to time.

6 Subsidy Purpose

An Applicant who is granted a Subsidy must use the Subsidy only for the Subsidy Purpose and not for any other purpose.

7 Payment Mechanics

- (a) An Applicant authorises and directs that any Subsidy granted to it be paid directly to the Qualified System Provider who has completed the Eligible Supply for which the Subsidy is granted.
- (b) On payment of a Subsidy in this manner, the Applicant to whom the Subsidy is granted hereby certifies in favour of the SA Government that the whole of the Subsidy was used for the Subsidy Purpose, and authorises and directs the Qualified System Provider to provide on behalf of the Applicant any certification, acknowledgement, acquittal or confirmation in connection with receipt or use of the Subsidy as is required by the SA Government.
- (c) Unless the SA Government agrees to extend the period for installation, a Subsidy will not be paid if the Qualified System Provider does not complete the Eligible Supply within:
 - (i) 6 months; or
 - (ii) for New Builds, 12 monthsof the Applicant notifying the SA Government it has accepted the Qualified System Provider's quotation.

8 Cooperation and Notification

An Applicant must comply with the following obligations:

- (a) co-operate with the SA Government and its Contractors in relation to Subsidy Scheme Matters, including to comply in a timely manner with reasonable requests made by the SA Government or its Contractors for the provision to the SA Government or its Contractors of information or documentation in relation to any issue relating to Subsidy Scheme Matters (including any acknowledgement, acquittal or similar documentation in connection with receipt of the Subsidy);
- (b) permit the SA Government and its Contractors to enter the Applicant's property to carry out inspections the SA Government or its Contractors deem necessary in relation to Subsidy Scheme Matters; and
- (c) immediately notify the SA Government or its Contractors of any change in its circumstances which may impact on its ability or entitlement to obtain a Subsidy or make or repeat any representation and warranty under, or otherwise comply with, these Terms.

9 Obligations relating to Eligible Equipment

- (a) An Applicant must not operate or maintain its Subsidised Equipment in any way which would render the manufacturer's warranty void.
- (b) Without limiting the above, an Applicant must not permit any person who is not suitably qualified to undertake maintenance or any other work in relation to its Subsidised Equipment.
- (c) An Applicant must not remove, or permit to be removed, all or any part of its Subsidised Equipment from the installation site specified in its Subsidy application except:

- (i) *for the purposes of maintenance or repair;*
 - (ii) *for the physical protection or safety of any person, property or the environment; or*
 - (iii) *to dispose of the Subsidised Equipment at a time after the expiry of all warranties provided in respect of that equipment (whether by the manufacturer or the installer); or*
 - (iv) *with the written consent of the SA Government.*
- (d) If a financier holding security over the Subsidised Equipment requires its removal from the installation site specified in the Applicant's Subsidy application due to the Applicant's failure to comply with the Applicant's arrangements with that financier, then the Applicant is in breach of these Terms and must immediately notify the SA Government and repay the relevant Subsidy to, or as directed by, the SA Government
- (e) An applicant agrees to allow its Subsidised Equipment to be made available to participate in SA Government sanctioned trials on such reasonable terms specified by the SA Government, including the remote monitoring of the Subsidised Equipment and the collection of information and data relating to these trials, noting the privacy provisions in Clause 15.

10 Representations and Warranties

Each Applicant represents and warrants to the SA Government on an ongoing basis that:

- (a) it satisfies the Customer Eligibility Criteria and complies with these Terms;
- (b) all Subsidised Equipment has been or will be purchased by the Applicant for use at the site specified in its Subsidy Application and not for the purpose of re-sale;
- (c) all information submitted by it or on its behalf to the SA Government or its Contractors under or in relation to Subsidy Scheme Matters is true, complete, accurate and not misleading; and
- (d) to the best of its knowledge, there is no legal, regulatory, contractual or other restriction upon it performing its obligations under these Terms.

11 Consequences of Breach

Each Applicant acknowledges and agrees that if it breaches these Terms, the SA Government may (without limitation to its rights) do any one or more of the following:

- (a) reject any pending Subsidy application and/or withhold any pending Subsidy payments; and
- (b) require the Applicant to reimburse the SA Government (by payment to such account as the SA Government directs) for all or any part of any Subsidy granted to the Applicant as specified by the SA Government.

12 Return of Subsidy

- (a) Without limiting clause 1 if all or any part of any Subsidy granted to an Applicant is not used for the Subsidy Purpose, the Applicant must immediately notify the SA

Government and repay the relevant Subsidy (or portion thereof) to, or as directed by, the SA Government.

- (b) If the Applicant (for whatever reason) receives from a Qualified System Provider a full refund of the amount paid (or payable) for the Eligible Supply, the Applicant must immediately notify the SA Government and repay the relevant Subsidy to, or as directed by, the SA Government.

13 Incorrect Information

An Applicant acknowledges and agrees that incorrect or incomplete information submitted by it may lead to the delay or rejection of an application for a Subsidy and may cause the SA Government to prevent the Applicant from applying for a Subsidy in future.

14 Audit

- (a) Each Applicant acknowledges and agrees that the rights and responsibilities of the Auditor General under the *Public Finance and Audit Act 1987* (SA) are not limited or otherwise affected by these Terms.
- (b) Each Applicant must provide the Auditor-General with such assistance, including the provision of information, as the Auditor-General may reasonably require in connection with any carrying out of his or her functions under the *Public Finance and Audit Act 1987* (SA).

15 Privacy and Disclosure

Each Applicant acknowledges and agrees that:

- (a) all information and documents provided by it in connection with Subsidy Scheme Matters will be the property of the SA Government and/or its Contractors and where such information and documents are collected by, and are the property of, the SA Government's Contractors only, the collection of such information will not be subject to the SA Government's privacy policies;
- (b) the SA Government may disclose information and documents provided to the SA Government in connection with Subsidy Scheme Matters to:
 - (i) *its Contractors; and*
 - (ii) *any agency, authority, instrumentality, a Minister or officer of the State of South Australia or to Cabinet, Parliament or any Parliamentary committee where it is customary for the SA Government to disclose such information (whether or not the SA Government is legally obliged to do so); and*
- (c) the SA Government and other South Australian governmental agencies are subject to the *Freedom of Information Act 1991* (SA) and that information and documents provided to the SA Government in connection with Subsidy Scheme Matters may become the subject of an application under that Act and access to them may need to be given to a third party in accordance with that Act. Neither the SA Government nor any other South Australian governmental agency has any liability to an Applicant or Qualified System Provider whatsoever for giving access to information or a document in accordance with the *Freedom of Information Act 1991* (SA).

16 Release of Liability

Each Applicant releases and holds harmless the SA Government, its employees, officers and agents from all liability (in contract, tort (including negligence), under statute, or otherwise arising) in relation to any action or other proceeding for damages or other relief for, or in relation to, any act or matter done or omitted to be done in connection with Subsidy Scheme Matters.

Nothing in this clause limits or excludes liability that cannot, by law, be limited or excluded.

17 Notices to SA Government

Any notice or other communication by an Applicant to the SA Government contemplated by these Terms must be:

- (a) in writing in English, legible and signed by the Applicant or its agent; and
- (b) sent by:
 - (i) *express or registered post (with delivery confirmation) to GPO Box 320, Adelaide SA 5001; or*
 - (ii) *email to HBS@sa.gov.au.*

If an Applicant sends a communication contemplated by these Terms other than by email, it must use all reasonable endeavours to send a copy of the communication promptly by email.

18 Benefit of Terms

Each Applicant acknowledges and agrees that these Terms are for the benefit of, and may be relied on and enforced by, the SA Government and its Contractors.

19 Governing law

These Terms are governed by the laws of South Australia.
