

Discover Energy Terms and Conditions Virtual Power Plant

Please read these terms and conditions carefully as it will tell you what you need to know about the terms and conditions of participating in the Discover Energy's Virtual Power Plant - Energy Plan and us providing the VPP Plan Services. These terms and conditions are between

- (1) Discover Energy (ABN 20 619 204 750) (in this contract referred to as "Discover Energy", "we", "our" or "us"); and
- (2) You, the customer to whom this contract applies (in this contract referred to as "you" or "your").

These Terms and Conditions, which include the VPP Welcome Letter, are supplementary to the Terms and Conditions set out in your Standard, Market, and Solar PV Contract/s, you should read these Terms and Conditions together with your Energy Contract to best understand your relationship with us. Your contract with Discover Energy relating to your Energy Plan will continue to apply, except where there is a conflict with these Terms and Conditions, in which case these Terms and Conditions will apply to the extent of the conflict and permissible by law.

1. Eligibility and conditions of participation

- 1.1. To participate in the VPP Plan, you must:
- a. Be a residential or Small Business Owner or tenant of the Premises;
 - b. Have an Operated Product that meets specifications as stated in your energy offer eligibility requirements and the Discover Energy Approved VPP Operated Product Specifications (subject to change from time to time);
 - c. Have successfully registered a Discover Energy VPP account;
 - d. Advise Discover Energy of any modifications to your system
 - e. Have a maximum inverter capacity of 10KW
 - f. Have reliable Wi-Fi connection in relation to your Discover Energy VPP Account access;
 - It is recommended that you install a dedicated communications device such as an internet dongle for your inverter to ensure that communications are not interrupted due to an unstable connection.
 - g. Be and remain the Discover Energy account holder for the Premises for the term;
 - h. Have a smart meter with remote capability enabled installed at the Premises;
 - i. Have a grid connection agreement between You and Your electricity distributor to allow export of electricity from the Supply Address; and
 - j. Provide consent to Discover Energy to manage the operation of your Operated Product throughout the term.
- 1.2. Despite clause 1.1, you are not eligible to participate in this VPP Plan if:
- k. Life Support equipment is installed or used at the Premises;
 - l. You are participating in, or intend to participate in any demand response program by another retailer or Regulatory body during the term (*excluding South Australia's Smarter Homes Regulation managed via Relevant Agents*);
 - m. You are participating in or intend to participate in any other VPP arrangement outside of Discover Energy.
 - n. You are receiving a Premium Government Feed-in tariff;
or
 - o. You or any person in the Premises have an underlying physical or medical condition and rely on electricity for treatment or support, which may be adversely affected by participating in this VPP Plan.

2. Discover Energy Operated Product Management

- 2.1. Throughout the term you agree to allow Discover Energy to manage the operated product for smart charging services including but not limited to the following:

- a. Discharge Event
 - b. Charge Event
 - c. Activate Zero limit
 - d. Bypass Storage – charge
 - e. Bypass Storage – discharge
 - f. Demand management
 - g. Initiate software/firmware updates
 - h. Any other services deemed reasonable by Discover Energy including system testing.
- 2.2. We may notify you if there are consecutive VPP Events anticipated in any one day. We may limit the VPP Events that you participate in if your VPP Plan energy requirements exceed your stored energy availability.
- 2.3. You may contact us during a VPP Event to stop your Operated Product Discharge if you wish to opt out of any one VPP Event. At the sole discretion of Discover Energy, if you opt out of more than 1 VPP Event a month, you may no longer be eligible to participate in the VPP Plan.
- 2.4. Despite clause 2.1, you acknowledge and accept that Discover Energy has no obligations to manage your Operated Product during any VPP Event.
- 2.5. If your network tariff attracts a Demand Charge we may opt to exclude your system from Charge Events that occur during the demand charging window.

Note: Discover Energy may also initiate the management of your Operated Product to optimise your tariff costs, solar feed-in and to meet market requirements.

3. Participation Payments

- 3.1. Subject to clause 3.2, by successfully engaging in this VPP Plan, we will pay you the amount that is specified in your energy offer for your solar generation fed into the grid where Feed-in has been initiated by Discover Energy's management of your Operated Product.
- 3.2. Payments will be paid as a c/kWh rate as a credit on your actual electricity bills at the rate of your agreed VPP Plan Feed-in rate under your Energy Contract.
- 3.3. VPP Credit amounts that exceed \$100 can be requested to be paid to you by electronic transfer no more than 4 times per calendar year. An administration fee of \$15.00 (GST incl) will apply to each additional request.
- 3.4. Discover Energy may vary your VPP Plan Feed-in rate by providing you with written notice of not less than 5 business days.
- 3.5. You agree and accept that the VPP Plan Feed-in exported kWh and calculation credit is correct and accurately calculated. If you believe the VPP Plan Feed-in has been incorrectly calculated, you may provide us with complete information and supporting documentation of this alleged error in writing, however, Discover Energy has the sole discretion to accept or reject any query.

4. Duration and Termination of the VPP Plan

- 4.1. Subject to clauses 4.2, 4.3 and 5, your participation in this VPP Plan is for the term of 1 year from the date you agree to these Terms and Conditions.
- 4.2. If you no longer wish to participate in the VPP Plan, you may notify us in writing at any time. If you do, we will no longer manage control of your Operated Product and all Participation Payments under clause 3.1 will cease to be effective from the date of your removal from the VPP Plan. Removal from the VPP Plan will occur no later than 10 business days from receiving notification from you.
- 4.3. We may also end this VPP Plan at any time by providing you with written notice.

Despite clause 4.2 for South Australian customers Discover Energy will continue to manage control of your Operated Product where you have nominated Discover Energy as your Relevant Agent under South Australia's Smarter Homes regulation.

Termination by Us

- 4.4. In addition to any other rights provided at law, We may provide You with no less than 30 days written notice to terminate this Agreement:
 - a. if Your grid connection agreement is terminated;
 - b. if We determine acting reasonably that it is not technically or operationally feasible or commercially viable to supply the VPP Plan Services to You;
 - c. upon You notifying us, or if We become aware, that the property located at the Supply Address to which the VPP Plan Services apply to has been sold, leased, sublet, licensed, transferred or assigned;
 - d. for convenience; or
 - e. if either of Your Standard, Market, or Solar PV Contract/s are terminated.
 - f. If this Agreement is terminated by Us in accordance with Clause 4.4:
- 4.5. You will be entitled to retain the Feed-in Credits that You have already received as at the date of termination and we will pay You the Feed-in Credits that have accrued up to the date of termination. You will not be entitled to receive any other Feed-in Credits.

Termination by You

- 4.6. You may terminate this Agreement by giving Us written notice of not less than 30 days stating that You opt not to accept the variation to the Agreement pursuant to clause 5.3 or 9.2. If you terminate in accordance with this clause, You will be entitled to retain the Feed-in Credits which You have received as at the date of termination, and we will pay You the Feed-in Credits that have accrued up to the date of termination.

Termination for Breach

- 4.7. Either party may terminate this Agreement at any time by written notice of not less than 30 days to the other party if that other party commits a material breach of this Agreement and that breach:

- a. is not capable of remedy; or
- b. is capable of remedy but is not remedied within a reasonable period of not less than 30 days from the date of a written notice calling upon the party in breach to remedy such breach.

Effect of termination by You without cause or for Your breach

4.8. Without limiting clause 4.10, if:

- a. You terminate this Agreement other than in accordance with clause 4.6 or clause 4.7; or
- b. We terminate this Agreement for Your breach in accordance with clause 4.7,

You will be entitled to retain the Feed-in Credits that You have already received as at the date of termination, and we will pay You the Feed-in Credits that have accrued up to the date of termination, but You will not be entitled to receive any further Feed-in Credits.

4.9. Without limiting clause 4.10, if You terminate this Agreement for Our breach in accordance with clause 4.7, You will be entitled to retain the Feed-in Credits which You have received as at the date of termination, and we will pay You the Feed-in Credits that have accrued up to the date of termination.

Effect of Termination – General

4.10. Termination of this Agreement will not affect any:

- a. accrued rights or remedies that We or You may have under this Agreement; or
- b. rights or obligations stated to survive termination, or by their nature intended to survive termination.

5. Term Renewal

- 5.1. This Agreement will terminate at the end of the Initial Term if either party provides written notice that it is terminating this Agreement at least 14 days prior to the end of the Initial Term. If neither party provides at least 14 days' written notice prior to the end of the Initial Term, this Agreement will automatically renew for successive terms of one (1) year (each a Further Services Term).
- 5.2. In any Further Services Term either party may terminate for convenience at any time by providing the other with 30 days' prior written notice that it is terminating this Agreement.
- 5.3. If this Agreement renews in accordance with clause 5.1 for a Further Services Term, all other terms and conditions of this Agreement continue to apply during the Further Services Term, but in addition to the rights of Variation under clause 9, We may at any time provide You with 30 days' written notice (from the date in the notice) varying the terms and conditions of this Agreement (not including changes to any fees, charges or price) that will apply for any Further Services

Term. If You do not agree with the proposed variations, You may terminate this Agreement with 30 days' written notice to us.

- 5.4. If You or We terminate this Agreement at the end of the Initial Services, You will be entitled to retain the Feed-in Credits which You have received as at the date of termination, and we will pay You the Feed-in Credits that have accrued up to the date of termination.

6. Liability

- 6.1. You are responsible for ensuring that your Operated Product including the Operated Product and required Wi-Fi connections are functioning in a proper and efficient manner.
- 6.2. You indemnify and hold us harmless from all loss, damage, claims, liabilities, penalties, fines and expenses arising from your breach of clause 6.
- 6.3. To the extent permitted by law, we will not be liable for any loss, harm, damage (including property damage), expense (including legal fees) or third-party claims which you pay, suffer, incur or are liable for any reason, including arising from but not limited to:
- a. Your participation in the VPP Plan;
 - b. Our provision of the VPP Plan Services;
 - c. Charging, Discharging, bypassing, activating zero exports, updating or testing your Operated Product, including any effects on your Operated Product, and/or Operated Product warranty or lifespan;
 - d. Your Discover Energy Contract or grid connection agreement;
 - e. Any errors, viruses or bugs present in or arising from the VPP Plan Services or any incompatibility of the VPP Plan Services with any other software or hardware;
 - f. Economic loss (including increased electricity costs, loss of solar output, loss of stored solar energy, disruption of energy supply or storage, loss of revenue including any Feed-in tariff or profit or any reduction in capital value of the Supply Address), loss of contract, loss of profit or revenue or loss of opportunity; and
 - g. Any delays in us receiving any written notifications you send to us where the cause of that delay is out of our control.
- 6.4. Our liability to you in contract, tort, statute or otherwise in connection with these Terms and Conditions is limited to the extent permitted by law and subject to your statutory rights under the Australian Consumer Law which cannot be excluded or modified.
- 6.5. This clause 6 will survive termination or expiry of these Terms and Conditions.

7. Your Obligations

- 7.1. You acknowledge and agree that on each day during the term of these Terms and Conditions, you must:
- a. have authority and capacity to enter into these Terms and Conditions;

- b. own or occupy the Supply Address, or if you are not the owner of the Supply Address, have obtained written consent from the owner in relation to the entry into and performance of these Terms and Conditions;
 - c. have a Discover Energy approved Operated Product;
 - d. own or have the right to use the Discover Energy approved Operated Product and keep same maintained;
 - e. not be participating in another Virtual Power Plant Energy Plan;
 - f. have all necessary approvals, consents or authorities from any owner, residents, owner's corporation or local authorities;
 - g. have a Discover Energy Contract in relation to the Supply Address;
 - h. comply with all applicable Regulatory Authority Requirements;
 - i. keep in place a grid connection agreement and not be in breach of same; and
 - j. meet any other criteria notified by us from time to time.
- 7.2. You agree to co-operate with us and your manufacturer if a software or firmware upgrade to your Discover Energy approved Operated Product is necessary to provide the VPP Plan Services.
- a. You agree that we may initiate a software or firmware upgrade to your Discover Energy approved Operated Product on your behalf to continue to provide the VPP Plan Services, where you have failed to complete a required upgrade and have not specifically advised us not to.
 - b. You agree that we may contact relevant parties including your solar installer, or manufacturer regarding your Operated Product, for the purposes of resolving any technical, communications or data issues, including software and firmware updates.
- 7.3. If the Discover Energy approved Operated Product or Supply Address is sold, leased, sublet, licensed, transferred or assigned to any other person:
- a. you will notify us immediately; and
 - b. this agreement will end under Clause 4.4.c

8. Privacy and Confidentiality

- 8.1. We will handle your personal information in accordance with our privacy policy available at discoverenergy.com.au/help_and_support/privacy_policy
- 8.2. You agree that we may access and use your detailed meter reads for any reasonable purposes in connection with the VPP Plan including to calculate and process your VPP Plan Feed-in Payment and to provide reporting to any Regulatory Authority.
- 8.3. Due to the commercially sensitive nature of the VPP Plan, we request that you do not disclose or make public any information about the VPP Plan, including your participation in the VPP Plan, any notification regarding peak events and any VPP Plan Payments without our prior written consent.
- 8.4. You agree and consent to us or our related companies:
- a. Contacting you regarding any event, your solar, battery or Wi-Fi operating functions and any other matter related to the VPP Plan;

- b. Contacting you in relation to future VPP Plans that we may conduct;
 - c. Using your energy consumption and battery Data for internal assessments, developing new products and services and marketing activities for existing or new products and services;
 - d. Monitoring your Data and sharing this Data, as well as your personal information and national metering identifier, with a Regulatory Authority; and
 - e. Using your Data in any way, subject to privacy laws and our privacy policy.
- 8.5. This clause 8 will survive termination or expiry of these Terms and Conditions

9. Amendments

- 9.1. We may by written notice to you immediately amend these Terms and Conditions:
- a. as we consider necessary to comply with any change in any Regulatory Authority Requirements or where we are permitted to make such changes;
 - b. to make a change agreed by the Parties;
 - c. to make any changes provided they are to your advantage; or
 - d. if we can demonstrate that due to a change in Regulatory Authority Requirement a cost associated with the supply of our services to you has increased, we may decrease the value of the credits by a proportionate corresponding amount.
- 9.2. We may by written notice to you amend these Terms and Conditions in circumstances other than set out in clause 9.1 above and upon receipt of the notice, You can either:
- a. accept the amendment; or
 - b. opt not to accept the amendment and terminate these Terms and Conditions by providing us at least 30 days' prior written notice.
 - c. You will be deemed to have accepted the amended Terms and Conditions 30 days after written notification except where you have selected to opt out under clause 9.2(b).

10. Regulatory Authority Requirements

- 10.1. If:
- a. any matter required to be dealt with by a Regulatory Authority Requirement is not, or is only partly, expressly dealt with in these Terms and Conditions; or
 - b. any term or condition of these Terms and Conditions is rendered void for inconsistency with a Regulatory Authority Requirement,
- the relevant Regulatory Authority Requirement is incorporated into these Terms and Conditions in whole or in part as required.

11. Intellectual Property

- 11.1. Intellectual Property owned by either party at the commencement of these Terms and Conditions remains the property of that party.
- 11.2. Any intellectual property developed or created during the performance of these Terms and Conditions vests in us immediately upon its creation and you assign all right, title and interest in such Intellectual Property to us and will do any further acts or execute any documents required by us to affect such assignment.
- 11.3. Without limiting any other clause of these Terms and Conditions, to the extent you provide, submit, send or receive information or content in which you own intellectual property to us under or in connection with these Terms and Conditions, you provide us with a perpetual royalty-free worldwide license to use, reproduce, modify, adapt and create derivative works in such intellectual property for the purposes of improving and developing our products and services.

12. Electricity Distributor and Consents

- 12.1. You warrant that you meet all your obligations in clause 7.
- 12.2. You must immediately notify us if Your grid connection agreement is amended or terminated.
- 12.3. If We ask, You agree to appoint Us as Your representative to deal with Your distributor, government agency, Clean Energy Regulator and relevant manufacturer of your Operated Product on Your behalf, including to:
 - a. make any grid connection application or any similar, seek to amend or agree to any amendment of Your grid connection agreement;
 - b. accept Your electricity distributor's terms and conditions including any variation of such terms and conditions;
 - c. seek and receive information about Your eligibility to receive the VPP Plan Services, Your connection, grid connection agreement, Operated Product or other related systems at the Supply Address or any other technical information relevant to the supply of the VPP Plan Services.
- 12.4. You may withdraw the authorisation under clause 12.3 by notifying Us in writing, but this may delay or disrupt Our provision of the VPP Plan Services (and by withdrawing the authorisation You agree that We may in Our absolute discretion terminate or suspend the supply of VPP Plan Services that We consider are potentially affected by the loss of such authorisation).
- 12.5. You agree that in appointing Us as Your representative under clause 12.3, this may prompt third parties such as Your distributor to seek to ascertain whether You have complied with any of the distributor's requirements or Regulatory Authority Requirements. We are not liable to You for any loss, damage or liability You suffer as a result of any non-compliances in relation to Your Supply Address.

13. Smart Meters and eligibility

- 13.1. If at the point of entering into this agreement your metering equipment does not meet our eligibility requirements as specified in 1.1(h), you agree that we will arrange for a meter exchange at your premises to ensure eligibility.
- 13.2. If clause 1.1(h) is not met within 30 days of accepting this agreement, then this agreement ends under clause 4.7.
- 13.3. You warrant that all other eligibility requirements as set out in clause 1.1 are complied with in full prior to accepting any energy offer associated with these terms and conditions.

14. General

- 14.1. **Assignment:** Only we may assign or deal with the whole or any part of our rights or obligations under these Terms and Conditions without your prior written consent. You may not assign or deal with the whole or any part of your rights or obligations under these Terms and Conditions.
- 14.2. **Disputes:** A Party may not commence court proceedings relating to any dispute, controversy or claim arising from, or in connection with, these Terms and Conditions (including any question regarding its existence, validity or termination) (**Dispute**) without first meeting with a senior representative of the other Party to seek (in good faith) to resolve the Dispute. If the Parties cannot agree how to resolve the Dispute at that initial meeting, either Party may refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, either Party may ask the Law Society of New South Wales to appoint a mediator. The mediator will decide the time, place and rules for mediation. The Parties agree to attend the mediation in good faith, to seek to resolve the Dispute. The costs of the mediation will be shared equally between the Parties. Nothing in this clause will operate to prevent a Party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction. To review to be in-line with standard complaints procedure (this is more of a channel partner term)
- 14.3. **Further assurance:** You agree to promptly do all things and execute all further instruments necessary to give full force and effect to these Terms and Conditions and your obligations under it.
- 14.4. **Force Majeure:** We will not be liable for any delay or failure to perform our obligations under these Terms and Conditions if such delay is due to any circumstance beyond our reasonable control.
- 14.5. **Governing law:** These Terms and Conditions are governed by the laws of New South Wales. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
- 14.6. **Notices:** Any notice given under these Terms and Conditions must be in writing addressed to the relevant address last notified by the recipient to the Parties. Any notice may be sent by standard post or email and will be deemed to have

been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.

- 14.7. **Severance:** If a provision of these Terms and Conditions is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from these Terms and Conditions without affecting the validity or enforceability of the remainder of that provision or the other provisions in these Terms and Conditions.
- 14.8. **Waiver:** Except as otherwise provided in these Terms and Conditions, a right created under these Terms and Conditions may only be waived in writing signed by the party granting the waiver.
- 14.9. This clause 14 will survive termination or expiry of these Terms and Conditions

15. Definitions

The following definitions apply unless the context requires otherwise;

Activate Zero Limits means to temporarily alter the solar photovoltaic system limit to zero to prevent net or gross solar generation.

Bypass Storage - Charge means to redirect the excess solar generation from the solar photovoltaic system to the National Electricity Grid without charging the Operated Product.

Bypass Storage - Discharge means to reserve stored capacity in the Operated Product for use later.

Charge Event means the drawing of electricity into the Operated Product, either from a solar photovoltaic system or from the National Electricity Grid and Charging has the same meaning;

Data means any data relating to your Discover Energy approved Operated Product, your energy generation and consumption, net export of electricity and any other data that may be transmitted to us in connection with the VPP Plan Services;

Demand Charge means a Charge, measured on the level of your premises demand on the network during a specified time period or window. Typically calculating the highest 30-minute period of consumption during the window for the month multiplied by the days in that month.

Demand Management means to Charge, Discharge, or to Bypass your Operated Product to help reduce or better manage the demand at a site, or for a Network Frequency Event;

Discover Energy - **Energy Plan** means the Standard, or Market Retail Contract between Us and You for the supply of electricity to You at the Supply Address;

Discover Energy - **VPP Account** means a cloud-based Virtual Power Plant monitoring system provided by Discover Energy;

Discharge Event means the exporting of electricity from the Supply Address from the operated product or directly from the solar photovoltaic system to the National Electricity Grid and Discharging has the same meaning;

Feed-in is a form of credit on your electricity bill that Discover Energy exports to the grid. The Feed-in credit is calculated as total kWh exported energy times by Feed-in c/kWh for your billing period. For further details of your Feed-in rate, please refer to your energy offer;

Life Support Equipment means any equipment defined under the National Energy Retail Rules as life support equipment including:

- a. An oxygen concentrator;
- b. An intermittent peritoneal dialysis machine;
- c. A kidney dialysis machine;
- d. A chronic positive airways pressure respirator;
- e. Phototherapy equipment
- f. A ventilator for life support; or
- g. Any other equipment that a registered medical practitioner has certified is required for a person residing at the Premises for life support;

National Electricity Grid means the physical and market infrastructure required to transport and supply electricity in New South Wales, Victoria, Queensland, South Australia and Tasmania;

Network Frequency Event means a controlled change in the import or export of power from your combined storage and PV system to satisfy a network operators need to stabilise the grid frequency

Operated Product means the solar photovoltaic system, inverter and battery system make and models of your own that meets the specifications requirements as listed in our Approved Operated Products Document. Discover Energy may add or make changes to the Specifications from time to time.

Participation Payment means the payments specified in clause 3.1;

Premises means your residential or business supply address that you provide us with and update from time to time;

Regulatory Authority means any Australian or state or territory or local government electricity regulatory authority;

Regulatory Authority Requirements means any relevant Regulatory Authority regulation, including all laws, regulations, subordinate legislation, proclamations, orders in council, licence conditions, codes, guidelines or standards applicable from time to time to the supply or performance of the VPP Plan Services at the Supply Address;

Relevant Agent means a party authorised by the owner or operator of an electricity generating plant connected to the distribution network to remotely disconnect, and

later reconnect, that plant when directed by a party with the legal right to issue such a direction.

Small Business Owner has the meaning given in sections 2 and 5(2)(b) of the Retail Law.

Smart Meter A smart meter (also known as an advanced meter or 'type 4' meter) is a device that digitally measures your energy use. A smart meter measures when and how much electricity is used at your premises. It sends this information back to your energy retailer remotely, without your meter needing to be manually read by a meter reader.

South Australia Smarter Homes Regulation means prescribed generating systems connecting to the electricity distribution network in South Australia are required to be capable of being remotely disconnected and reconnected by a Relevant Agent registered with the Technical Regulator. **Supply Address** means the address set out in the VPP Welcome Letter and is the address at which the VPP Plan Services are or are to be supplied;

Term has the meaning provided in clause 4.1 and includes the Initial Terms and any Further Services Term;

VPP Event means a period of time typically less than an hour but which may be up to 10 hours in duration, during which Discover Energy directly or indirectly modifies Your Operated Product's control settings to perform a VPP Plan Services.

VPP Plan means a form of solar and solar battery electricity plan which is a cloud-based distributed power plant that aggregates the capacities of heterogeneous distributed energy resources (DER) for the purposes of enhancing power generation, as well as trading or selling power on the grid;

VPP Welcome Letter means the letter sent to you specifying the VPP Plan Services to be provided by us to you; and

VPP Plan Services means the right granted by you to Discover Energy to monitor, control and use your Discover Energy approved Operated Product, including the right to change the settings of the Discover Energy approved Operated Product at our sole discretion and to Discharge or Charge electricity from or to your Operated Product into or from the National Electricity Grid.