

## VIRTUAL POWER PLANT TERMS AND CONDITIONS

### 1. Background

- 1.1 These Virtual Power Plant Terms and Conditions (**VPP Terms and Conditions**) form part of the energy retail agreement (**Agreement**) between:
- (a) GloBird Energy Pty Ltd ABN 68 600 285 827, referred to in these VPP Terms and Conditions and elsewhere in the Agreement as “GloBird Energy”, “we” or “us”; and
  - (b) you, identified in the Agreement Details as the customer and referred to in these VPP Terms and Conditions and elsewhere in the Agreement as “you”,
- for the sale of electricity to you at the Premises.
- 1.2 Other parts of the Agreement are:
- (a) the Agreement Details;
  - (b) your Energy Plan; and
  - (c) our Market Offer Terms and Conditions.
- 1.3 In the event of any inconsistency between the various parts of the Agreement, the Agreement Details prevail over your Energy Plan which in turn prevails over these VPP Terms and Conditions which in turn prevails over our Market Offer Terms and Conditions.

### 2. Eligibility Criteria

- 2.1 The **Eligibility Criteria** you must meet are as follows:
- (a) you must be either the owner of and occupy the Premises or you must occupy the Premises with the owner’s consent;
  - (b) you must be compliant with the terms of the Agreement;
  - (c) the Premises must normally be occupied;
  - (d) the Premises must be directly connected to the distribution system not indirectly through any embedded network;
  - (e) you must own or otherwise have the right to use the System;
  - (f) there must be no person occupying the Premises who requires life support equipment or who uses the System for critical care needs;
  - (g) you must have reliable high speed internet connected to the Premises and the System, and access to a reliable telecommunications network, enabling us to communicate with the System at all times;
  - (h) a smart meter must be installed at the Premises;
  - (i) the System must be:
    - (1) a Qualifying VPP System;
    - (2) installed at the Premises, and at all times since it was installed must have been maintained, in accordance with all applicable legal requirements or requirements of your Distributor, any Accreditation Body, the manufacturers of the System or its installers, with certificates of electrical safety compliance (or equivalent) having been issued for the installation works;
    - (3) connected to the distribution system through the electrical installation at the Premises; and
    - (4) capable of operating up to its specified capacity;
  - (j) the Premises and the System must not be involved, participating or otherwise used in any third party’s virtual power plant or other demand response program, including any pilot or demonstration trial; and
  - (k) any additional eligibility criteria detailed in your Energy Plan.

### 3. VPP Credits

- 3.1 From the start of the VPP Period, we will pay you the VPP Credits.

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- 3.2 To avoid doubt, any VPP Credits we pay you are not the price of any Imports or Exports. Rather, they are the consideration for the VPP Services you supply.
- 3.3 We will pay VPP Credits as follows:
- (a) we will apply any VPP Credit that arises during a Billing Period against the amounts we charge you in the bill for that Billing Period; and
  - (b) if the VPP Credits that arise during that a Billing Period exceed the amounts we charge you in the bill for that Billing Period, we will apply the excess VPP Credits against the amounts we charge you in the bill for the next Billing Period and, if and to the extent necessary, carry that excess amount forward until it may be applied against the amounts we charge you in a subsequent bill.
- 3.4 On request we will pay you any excess VPP Credits or carried forward excess amounts. We will likewise pay you any excess VPP Credits or carried forward excess amounts when the Agreement ends.
- 3.5 Subject to clause 11, no bills are to be prepared for the VPP Services you supply. Instead, we will cover VPP Credits in the bills we send you under Market Offer Terms and Conditions, for electricity we have sold you.
- 3.6 To the extent relevant, we will calculate the amount of any VPP Credit using the same metering data and other information used to calculate amounts payable for Imports and Exports included in bills. You agree that data received or inferred from the System or included in any communication, report, web portal or app which incorporates such data may be incomplete or may be different from that metering data and other information and that the latter takes precedence.
- 3.7 If we have under-applied VPP Credits or not applied VPP Credits at all, we will deal with the relevant amount as an overcharged amount under the Agreement. If we have over-applied VPP Credits, we may recover from you the relevant amount as an undercharged amount under the Agreement.
- 3.8 We can reduce any rate at which we apply VPP Credits, and we can change any time window, threshold or other parameter under the key conditions applicable to VPP Credits under your Energy Plan at any time at which we have the right under the Market Offer Terms and Conditions to change the prices payable by you for your electricity use. If we decide to reduce the rate at which a VPP Credit is applied, or to change a relevant parameter, we will give you written notice of the reduction or change. We will give these notices to you by the same time and in the same manner as we are required to give you notices of changes to the prices payable by you for your electricity use under the Market Offer Terms and Conditions.
- 3.9 You acknowledge and agree that receiving VPP Credits may reduce amounts you might otherwise be entitled to under any government funded or other energy charge rebate, concession or relief scheme.

#### **4. Use of the System**

- 4.1 At any time during the VPP Period we may assume control of and use the System as follows:
- (a) we may connect to the System via your internet service and Wi-Fi at the Premises or by the telecommunications network;
  - (b) we may remotely access and monitor the System's operation; and
  - (c) we may direct your System to:
    - (1) supply electricity from the Solar System:
      - (A) to you to use at the Premises;
      - (B) to charge the Battery; or
      - (C) to the distribution system;
    - (2) discharge electricity from the Battery and supply that electricity:
      - (A) to you to use at the Premises; or
      - (B) to the distribution system;
    - (3) charge the Battery with electricity supplied from the distribution system; or
    - (4) store electricity in the Battery;

- (d) we may temporarily modify or disable the System's usual operating mode; and
- (e) we may otherwise operate the System in any default or other operating mode, all without prior notice to you.

4.2 In Using the System:

- (a) we will comply with manufacturers' requirements where they have been provided in writing to us by you; and
- (b) we will use reasonable endeavours to ensure that the supply of electricity from the distribution system to the Premises is not interrupted.

4.3 You agree that we may install controllers at the Premises, so that we make Use of the System, and that, if we do that, the controllers will remain our property. We may remove them at any time including when the Agreement ends. If we cause any damage when we do this, we will arrange for that damage to be repaired to the extent it was caused by us. You agree to provide us with reasonable access to the Premises, so that we can install and remove the controller.

4.4 Our right to Use the System prevails over your own right to control and use the System. However, to the extent that we are not making Use of the System, you may control and use it as you see fit and in doing so you may be entitled to be paid VPP Credits by us.

4.5 If to Use the System we are required to pay any licence or other fee to the manufacturer of the System or to any other third party, we may recover the amount of that fee from you.

## 5. Your obligations

5.1 At all times you must:

- (a) allow us to Use the System;
- (b) promptly action any reasonable request from us for you to restore our communications with the System or to make System settings or control mode changes; and
- (c) continue to meet the Eligibility Criteria.

5.2 Unless requested by us, you must not, and you must not allow any other person to:

- (a) modify, override, disable or otherwise interfere in any way with our ability to communicate with or Use the System including by making any changes to any device settings, control modes or internet connectivity; or
- (b) move, modify, tamper with or damage the System or any associated equipment.

5.3 You agree to:

- (a) comply with all applicable legal requirements or requirements of your Distributor, any Accreditation Body, the manufacturers of the System or its installers with respect to the ongoing operation and maintenance of the System;
- (b) regularly monitor your System to ensure its continued optimal and safe operation;
- (c) maintain the System at your cost, using appropriately qualified and experienced contractors as applicable;
- (d) take reasonable steps to maximise the generation of electricity by the Solar System and the amount of sunlight it has access to, including keeping trees, bushes and hedges at the Premises trimmed; and
- (e) not omit to do anything or allow anyone else to do anything that would reduce the output of the Solar System. This includes not erecting or modifying any building or structure (for example, an air conditioner unit or aerial) that would shade the Solar System.

5.4 You agree to notify us promptly:

- (a) if any of your circumstances change including if you no longer meet the Eligibility Criteria;
- (b) if you intend to modify the System;
- (c) if you intend to vacate or sell the Premises; or
- (d) of any matter of which you become aware regarding the Premises or the System with potential to impact on the continued optimal and safe operation of the System or our Use of the System.

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## 6. Suspension and termination

### 6.1 If:

- (a) the System is of a size we are reasonably satisfied is inappropriate for the electricity used at the Premises;
- (b) you do not comply with your obligations under these VPP Terms and Conditions to our reasonable satisfaction within 20 Business Days of a notice from us requiring you to comply;
- (c) the internet connection to the System or the Premises or both is lost and not reinstated it within 5 days after we notify you of its loss;
- (d) we cannot communicate with the System for more than 20 days in any 12 month period;
- (e) you withdraw the consents under clause 8.1; or
- (f) we decide we no longer want to operate the Virtual Power Plant,

then, by giving you 20 Business Days' notice, we may either:

- (g) we may suspend your participation in our Virtual Power Plant until further notice given by us, in our discretion, in which case you will not be required to supply any further VPP Services and we will not be required to pay you any further VPP Credits, unless and until such time as we give you a further notice that your participation in our Virtual Power Plant has resumed, which further notice we may give or not give in our discretion, and, subject to clause 6.2, neither you nor we have any rights and obligations under these VPP Terms and Conditions for the period of that suspension; or
- (h) end the Agreement in which case we will propose that you enter into a new agreement with us based on your Deemed Best Offer.

6.2 If your participation in our Virtual Power Plant is suspended under clause 6.1(g) or the Agreement ends under clause 6.1(h) or otherwise, we will pay VPP Credits to you up to the date your suspension starts or the Agreement ends. Any other accrued rights or obligations that we or you may have will not be affected nor will rights or obligations stated by these VPP Terms and Conditions to survive, or which by their nature are intended to survive, such suspension or termination.

## 7. Other benefits

You may be entitled to create or receive certificates, rebates, credits of other benefits as a result of our Use of the System, possibly including under demand response, energy efficiency or productivity schemes or programs. You warrant that you have not created or received any such benefits in connection with the System and, to the extent possible under law, you agree to assign to us the right to create or receive any such benefits and you must promptly respond to any reasonable request by us in connection with us creating or receiving any such benefits including providing any information and signing any documents.

## 8. Data

8.1 To the extent permitted by law, you consent to:

- (a) the transfer of the ownership of your Data to us;
- (b) us accessing and using the Data for any purpose we see fit (subject to privacy laws and our privacy policy);
- (c) us sharing the Data with third parties including your Distributor, AEMO, the Clean Energy Regulator, the Clean Energy Council, any Accreditation Body and the manufacturers of the System and to these third parties using and sharing the Data for any purpose they see fit (subject to privacy laws and their privacy policies);
- (d) us using the Data for internal assessments, developing new products and services and marketing activities for existing or new products and services;

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- 8.2 To the extent permitted by law, the consents under clause 8.1 extend to Data that relates to the period before the start of the VPP Period and continue even if we cease to be your electricity retailer.
- 8.3 You may withdraw the consents under clause 8.1 at any time by notifying us, but doing so may restrict or prevent us from using the System and may reduce the amount of your VPP Credits. We may also exercise our rights to suspend your participation in our Virtual Power Plant or to terminate the Agreement under clause 6.1.
- 8.4 This clause 8 survives any suspension of your participation in our Virtual Power Plant under clause 6.1(g) and this Agreement ending.

## 9. Liability

- 9.1 You acknowledge and agree that:
- (a) the System requires a continuous connection to the distribution system to operate normally and that it is your Distributor, not us, which is responsible for that connection;
  - (b) we are not liable for:
    - (1) any faults or defects with the System, and you agree to direct such matters to your installer;
    - (2) any communications infrastructure or software provided by any manufacturer of the System or any third party otherwise involved in our Use of the System; and
    - (3) any impact the distribution system has on the System, including arising from overvoltage and faults, and export limits as set by your Distributor or other third party.
- 9.2 Subject to clause 9.3, we accept liability to you to the extent we cause you loss or damage as a result of our breach of these VPP Terms and Conditions. However to the extent permitted by law, we are not liable to you for:
- (a) any other loss or damage in connection with or arising out of our Use of the System;
  - (b) any loss or damage in connection with or arising out of your use and control of the System;
  - (c) Excluded Loss; or
  - (d) loss or damage to the extent that it arises from your failure to take reasonable steps to avoid or minimise your loss or damage.
- 9.3 You acknowledge and agree that:
- (a) our Use of the System will impact you. For example, there will be less electricity from the System available for you to use at the Premises from time to time, charging the Battery with electricity supplied from the distribution system will appear as electricity usage in your bills, and discharging electricity from the Battery may impact the amount of electricity generated by the Solar System supplied to the distribution system. In addition, because the Battery may have a limited number of charge cycles, our Use of the System may have an impact on the lifespan of the Battery and may also impact on any product or manufacturer's warranty for any or all of the Battery, the Solar System and the Other Equipment. Subject to our obligations under clauses 4.2, liability for a breach of which we accept under clause 9.2(a), we are not liable for any loss or damage you suffer as a result of any of these impacts; and
  - (b) factors beyond our control may reduce the amount of your VPP Credits including, without limitation, your use of electricity at the Premises (e.g., electricity discharged from the Battery will always be supplied to the Premises first, with Exports therefore limited to any excess of the electricity discharged over the electricity you are using at the Premises) and the generation of electricity by the Solar System, limitations of the System's and the manufacturers' control settings and whether the appropriate control settings are in effect.

## 10. Definitions

In these VPP Terms and Conditions terms defined elsewhere in the Agreement, including in your Energy Plan and in the Market Offer Terms and Conditions, have the same meaning and:

**Accreditation Body** means Solar Accreditation Australia or any other body which accredits installers of Qualifying VPP Systems,

**Battery** means any battery energy storage system installed at the Premises that is detailed in the Agreement Details.

**Data** means any electricity or other data relating to you, the Premises or the System including any data stored in the System or held by any manufacturer of the System, software vendor or other third party.

**Deemed Best Offer** means that plan of ours which, in accordance with Energy Law, we identify as the best plan we can offer you.

**Eligibility Criteria** is defined in clause 2.1.

**Excluded Loss** means:

- (a) loss of profit, revenue or anticipated savings;
- (b) loss or denial of opportunity;
- (c) loss of access to markets;
- (d) damage to credit rating or goodwill;
- (e) financing costs;
- (f) special, incidental or punitive damages; or
- (g) any loss or damage arising from special circumstances that are outside the ordinary course of things,

however arising in respect of any circumstances under or in relation to this Agreement, and regardless of the basis on which a claim for same is made (including negligence or breach of law or agreement).

**Exports** means electricity supplied from the Premises to the distribution system through the distribution system's point of connection with the Premises.

**Imports** means electricity supplied from the distribution system to the Premises through the distribution system's point of connection with the Premises.

**Local Business Day** means a day other than a Saturday, a Sunday or a public holiday in the State in which the Premises are located.

**Local Time** means the time in the State in which the Premises are located.

**Other Equipment** means any equipment or other electrical appliance, other than the Battery and the Solar System, installed at the Premises that is detailed in the Agreement Details.

**Qualifying VPP System** means a system comprising one or more of a battery energy storage system, a solar system and other equipment or electrical appliances each of a kind as detailed your Energy Plan.

**Solar System** means any solar system installed at the Premises that is detailed in the Agreement Details.

**System** means the Battery, the Solar System and the Other Equipment.

**Use** in respect of the System means our control and use of the System under clause 4.1.

**Virtual Power Plant** mean our aggregated fleet of battery energy storage systems, solar systems and other equipment and electrical appliances whose operation we may co-ordinate to provide wholesale energy market and distribution system stability benefits.

**VPP Credit** means a benefit detailed as such in your Energy Plan.

**VPP Period** means the period commencing on the last to occur of:

- (a) the date when we start selling you electricity at the Premises under the Agreement;
- (b) if any additional eligibility criteria are detailed in your Energy Plan, the date we notify you that we are reasonably satisfied that you have met those eligibility criteria; and
- (c) if we are to install a controller at the Premises as contemplated by clause 4.3, the date we notify you that that controller is installed and that we are reasonably satisfied that it is operating normally,

and, subject to any suspension under clause 6.1(g), continuing until the Agreement ends.

**VPP Services** means the Virtual Power Plant related services you supply, and other Virtual Power Plant related obligations you have, under your Energy Plan and these Virtual Power Plant Terms and Conditions.

**VPP Terms and Conditions** is defined in clause 1.1.

**11. GST and tax invoicing**

- 11.1 This clause 11 applies only if:
- (a) in the Agreement Details you have represented to us that you will supply the VPP Services to us in the course or furtherance of an enterprise that you carry on and that you are registered or required to be registered for GST; and
  - (b) that supply is a taxable supply.
- 11.2 Any VPP Credit we owe you under clause 3 excludes any GST payable on the supply of your VPP Services to us. In addition to paying to you that VPP Credit, we must also credit or pay to you a further amount equal to any GST payable on the supply. We must credit or pay that further amount to you as and when we pay to you VPP Credit owed under clause 3, except we need not do so unless we have been able to create, or have received from you, a tax invoice for the supply.
- 11.3 You agree that, if we are able to, we will (and you will not) issue tax invoices in respect of your supply of VPP Services to us. We are registered for GST and will notify you if we cease to be. We will combine tax invoices with your bills and include your ABN on them.
- 11.4 If we are unable to issue tax invoices, you will. You must do so within 5 Business Days of a request from us.
- 11.5 Words defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) have the same meaning in this clause 11.