



# WEBSITE CONDITIONS OF USE

## 1. INTRODUCTION

- 1.1 Before you register to use or access Energy Matters' great Services, you must read, agree and accept these Conditions of Use. These Conditions of Use apply to all transactions carried out on the Site.
- 1.2 As from time to time we may need to update these Conditions of Use, you should check them every time you access or use the Site. All amended terms and conditions will be effective 30 days after their initial posting to this Site.
- 1.3 Please contact Energy Matters if you are not satisfied with, or have any queries about, these Conditions of Use.

## 2. EXPLANATION OF TERMS

*Conditions of Use* – refers to the terms and conditions relating to the use of the Site and the Services, which are set out below, and those incorporated by reference.

*Energy Matters* – means Energy Matters Pty Ltd ACN 118 108 044 and any of its related entities.

*Services* – means any of the various services offered by Energy Matters through the Site, including the service which allows a person to buy goods and/or services through the Site.

*Site* – the current site of <http://www.energymatters.com.au>, which is the internet website through which Energy Matters provides its Services, and which includes any pages or sites linked to the Site.

## 3. USE OF THE SERVICES

- 3.1 Your right to use the Services is personal to you.
- 3.2 You agree not to do any of the following:
  - (a) upload, transmit, distribute or in any way exploit any material obtained through the Site (including, but not limited to, our web pages) for any commercial purpose whatsoever;
  - (b) send unsolicited offers to purchase goods or services;
  - (c) use the Site for broad-based mailing or spamming;
  - (d) allow others to falsely identify your account as the origin of such communication;
  - (e) interfere in any way with the Site or the Services;
  - (f) transmit any unlawful, libellous or threatening material of any kind through the Site;
  - (g) take any action that would impose a large load on the Site; or
  - (h) copy, reproduce, alter or modify information or material from the Site (except information or material belonging to you) without the prior express written permission of Energy Matters.

## 4. OFFENCES

- 4.1 You agree that you are solely responsible for the content of your transmissions through the Site. Your use of the Site is subject to these Conditions of Use, all applicable laws and regulations and industry standards.
- 4.2 Energy Matters retains the right, at its sole discretion, to determine whether or not your conduct is consistent with the letter and spirit of these Conditions of Use and may, at its sole

Current as at 14 July 2011



discretion, immediately terminate your use of the Site if your conduct is found to be inconsistent with these Conditions of Use. We will act reasonably in exercising our discretion.

- 4.3 Set out below are lists of various offences for which Energy Matters may, at its sole discretion, remove your name from its register and disqualify you from using the Service either temporarily or permanently. It is emphasised that this list is not intended to be an exhaustive list and may be varied from time to time at the absolute discretion of Energy Matters.
- 4.4 Registration information offences:
- (a) representing yourself as another Site user or registering by using a false identity;
  - (b) falsifying or omitting your name, address and/or telephone number (including the use of fax machines or disconnected numbers);
  - (c) falsifying or omitting your email address. This is determined when an email address bounces repeatedly (usually an error message that the email address or mailbox is unknown or invalid).
- 4.5 Miscellaneous offences:
- (a) using any routine or activity to interfere or attempt to interfere with any of Energy Matters' operations;
  - (b) use of any profanity or patently vulgar language of a racist, hateful, sexual or obscene nature.

## 5. FURTHER OBLIGATIONS AND ACKNOWLEDGEMENTS

- 5.1 You acknowledge and agree that:
- (a) Energy Matters cannot guarantee the preservation of any record and may delete information at its sole discretion and without notice;
  - (b) Energy Matters may at its sole discretion refuse access to the Site to anyone at any time; and
  - (c) all messages made available as part of the Site (including any bulletin boards and chat rooms) and any opinions, advice, statements or other information contained in any messages posted or transmitted by any third party are the responsibility of the author of that message and not of Energy Matters.
- 5.2 You acknowledge and agree that the fact that a particular message is posted on or transmitted using the Site does not mean that Energy Matters has endorsed that message in any way or verified the accuracy, completeness or usefulness of any message. The Site is not monitored 24 hours a day, seven days a week and Energy Matters encourages visitors to the Site to report any objectionable message to Energy Matters immediately. We also advise appropriate parental supervision of the use of the Site.

## 6. RELEASE AND INDEMNITY

- 6.1 Except where a claim arises as a result of a breach of warranty by Energy Matters or a failure by it to comply with its obligations under these Conditions of Use, you agree to forever release and discharge all claims that you now have, or may have, against Energy Matters, its related companies, shareholders, directors, employees, agents and representatives connected with or arising out of or incidental to any use of the Site.
- 6.2 You agree to indemnify and at all times keep indemnified and hold Energy Matters, its related companies, shareholders, directors, employees, agents and representatives harmless from and against any claim or demand made by any third party arising out of your use of the Site, the breach of these Conditions of Use by you or by any other user of the Site using your login.



- 6.3 The provisions of this release and indemnity will survive any termination of the agreement formed by your acceptance of these Conditions of Use.

## **7. ERRORS AND OMISSIONS**

- 7.1 Energy Matters will use reasonable endeavours to ensure that all information and material provided by us on the Site is correct at the time of inclusion. However, Energy Matters does not and cannot guarantee the accuracy of such information and materials.
- 7.2 When errors are discovered in any information or material provided by us on the Site, we will correct those errors. Energy Matters reserves the right to revoke any stated offer due to detail and pricing errors, inaccuracies or omissions.

## **8. PRIVACY POLICY**

- 8.1 We view protection of users' privacy as a very important community principle and we clearly understand that your information is one of our most important assets. Therefore, we only use your information as described in our Privacy Policy.
- 8.2 Our current Privacy Policy is available by clicking [here](#).
- 8.3 You acknowledge that the Privacy Policy forms part of, and is incorporated into, these Conditions of Use and acceptance of these Conditions of Use is acceptance of our Privacy Policy.
- 8.4 If you object to your information being transferred or used in the way set out in the Privacy Policy, please do not use the Service or the Site.

## **9. INTELLECTUAL PROPERTY**

- 9.1 Energy Matters owns all copyright and other intellectual property rights in material on its Site. You must not reproduce, distribute, communicate or publish any content on the Site, unless permitted under the Copyright Act 1968 or by Energy Matters in writing.
- 9.2 You may create any links to the Site however no links may be created from the Site to another site without the prior written permission of Energy Matters.
- 9.3 In addition, you must not:
- (a) under any circumstances modify or copy:
    - (i) the layout of the Site; or
    - (ii) any computer software or code contained in the Site;
  - (b) use the Site or any material or information on it for any purpose that is unlawful, in breach of these Conditions of Use or otherwise infringes any rights (including intellectual property rights) of any third party or to knowingly transmit any virus, Trojan horse, worm or other disabling feature affecting software or hardware;
  - (c) use the Site to data mine or compile any document or database incorporating or based on material or information contained on or gained through the Site;
  - (d) impersonate another person or allow another person to impersonate you.

## **10. GOODS AND SERVICES TAX (GST)**

- 10.1 GST will be levied on any purchase transacted through the Site.
- 10.2 In Australia, 'GST' has the meaning given to that term in the New Tax System (Goods and Services Tax) Act 1999 (Cth), Australia.



- 10.3 In New Zealand, 'GST' has the meaning given to that term in the Goods and Services Tax Act 1985, New Zealand.

## **11. LAWS, CAUSES OF ACTION AND WAIVER**

- 11.1 These Conditions of Use are governed by and are to be construed in accordance with the laws of the State of Victoria, Australia. You and Energy Matters agree to submit to the exclusive jurisdiction of the courts of the State of Victoria, Australia.
- 11.2 If any provision(s) of these Conditions of Use is held by a court of competent jurisdiction to be illegal or unenforceable it may be severed and the remaining terms or parts will continue in full force and effect.
- 11.3 Any failure of a party to exercise or enforce any provisions of, or any rights it may have under, these Conditions of Use shall not constitute a waiver of such right or provision unless such waiver is acknowledged and agreed to by the other party in writing.
- 11.4 You and Energy Matters agree that any cause of action arising out of or in relation to these Conditions of Use or the Site must commence within one year after the cause of action arose, otherwise such cause of action is permanently barred and you and Energy Matters forever waive any such cause of action.