

1. Terms and Conditions

WEB SITE SERVICE AGREEMENT/TERMS OF USE & SERVICE

The services that **energyswitch.com.au** trading as **EnergySwitch** Comparison provides to Users is subject to the following Terms of Use (“TOU”). **EnergySwitch** reserves the right to update the TOU at any time without notice to User. The most current version of the TOU can be reviewed by clicking on the “Terms of Use” hypertext link located at the bottom of our Web pages.

A. This Agreement, which incorporates by reference other provisions applicable to use of the ‘EnergySwitch Website’, including, but not limited to, supplemental terms and conditions set forth hereof (“Supplemental Terms”) governing the use of certain specific material contained on ‘EnergySwitch Website’, sets forth the terms and conditions that apply to use of ‘EnergySwitch Website’ by User. By using EnergySwitch (other than to read this Agreement for the first time), User agrees to comply with all of the terms and conditions hereof. The right to use ‘EnergySwitch Website’ is personal to User and is not transferable to any other person or entity. User is responsible for all use of User’s Account (under any screen name or password) and for ensuring that all use of User’s Account complies fully with the provisions of this Agreement. User shall be responsible for protecting the confidentiality of User’s password(s), if any.

B. EnergySwitch shall have the right at any time to change or discontinue any aspect or feature of ‘EnergySwitch Website’, including, but not limited to, content, hours of availability, and equipment needed for access or use.

CHANGED TERMS

EnergySwitch shall have the right at any time to change or modify the terms and conditions applicable to User’s use of ‘EnergySwitch Website’, or any part thereof, or to impose new conditions, including, but not limited to, adding fees and charges for use. Such changes, modifications, additions or deletions shall be effective immediately upon notice thereof, which may be given by means including, but not limited to, posting on ‘EnergySwitch Website’, or by electronic or conventional mail, or by any other means by which User obtains notice thereof. Any use of ‘EnergySwitch Website’ by User after such notice shall be deemed to constitute acceptance by User of such changes, modifications or additions.

DESCRIPTION OF SERVICES

Through its Web property, EnergySwitch provides User with access to a variety of resources, including download areas, communication forums and product information (collectively “Services”). The Services, including any updates, enhancements, new features, and/or the addition of any new Web properties, are subject to the TOU.

EQUIPMENT

User shall be responsible for obtaining and maintaining all telephone, computer hardware, software and other equipment needed for access to and use of 'EnergySwitch Website' and all charges related thereto.

USER CONDUCT

A. User shall use the 'EnergySwitch Website' for lawful purposes only. User shall not post or transmit through the 'EnergySwitch Website' any material which violates or infringes in any way upon the rights of others, which is unlawful, threatening, abusive, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane or otherwise objectionable, which encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law, or which, without EnergySwitch's express prior approval, contains advertising or any solicitation with respect to products or services. Any conduct by a User that in EnergySwitch's discretion restricts or inhibits any other User from using or enjoying the 'EnergySwitch Website' will not be permitted. User shall not use the 'EnergySwitch Website' to advertise or perform any commercial solicitation, including, but not limited to, the solicitation of users to become subscribers of other on-line information services competitive with EnergySwitch.

B. 'EnergySwitch Website' contains copyrighted material, trademarks and other proprietary information, including, but not limited to, text, software, photos, video, graphics, music and sound, and the entire contents of 'EnergySwitch Website' are copyrighted as a collective work under the Australian copyright laws. EnergySwitch owns a copyright in the selection, coordination, arrangement and enhancement of such content, as well as in the content original to it. User may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit, any of the content, in whole or in part. User may download copyrighted material for User's personal use only. Except as otherwise expressly permitted under copyright law, no copying, redistribution, retransmission, publication or commercial exploitation of downloaded material will be permitted without the express permission of EnergySwitch and the copyright owner. In the event of any permitted copying, redistribution or publication of copyrighted material, no changes in or deletion of author attribution, trademark legend or copyright notice shall be made. User acknowledges that it does not acquire any ownership rights by downloading copyrighted material.

C. User shall not upload, post or otherwise make available on the 'EnergySwitch Website' any material protected by copyright, trademark or other proprietary right without the express permission of the owner of the copyright, trademark or other proprietary right and the burden of determining that any material is not protected by copyright rests with User. User shall be solely liable for any damage resulting from any infringement of copyrights, proprietary rights, or any other harm resulting from such a submission. By submitting material to any public area of the 'EnergySwitch Website', User automatically grants, or warrants that the owner of such material has expressly granted EnergySwitch the royalty-free, perpetual, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate and distribute such material (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or hereafter developed for the full term of any copyright that may exist in such material. User also

permits any other User to access, view, store or reproduce the material for that User's personal use. User hereby grants EnergySwitch the right to edit, copy, publish and distribute any material made available on the 'EnergySwitch Website' by User.

D. The foregoing provisions of Section 5 are for the benefit of EnergySwitch, its subsidiaries, affiliates and its third party content providers and licensors and each shall have the right to assert and enforce such provisions directly or on its own behalf.

USE OF SERVICES

The Services may contain e-mail services, bulletin board services, chat areas, news groups, forums, communities, personal web pages, calendars, photo albums, file cabinets and/or other message or communication facilities designed to enable User to communicate with others (each a "Communication Service" and collectively "Communication Services"). User agrees to use the Communication Services only to post, send and receive messages and material that are proper and, when applicable, related to the particular Communication Service. By way of example, and not as a limitation, User agrees that when using the Communication Services, User will not:

- Use the Communication Services in connection with surveys, contests, pyramid schemes, chain letters, junk email, spamming or any duplicative or unsolicited messages (commercial or otherwise).
- Defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others.
- Publish, post, upload, distribute or disseminate any inappropriate, profane, defamatory, obscene, indecent or unlawful topic, name, material or information.
- Upload, or otherwise make available, files that contain images, photographs, software or other material protected by intellectual property laws, including, by way of example, and not as limitation, copyright or trademark laws (or by rights of privacy or publicity) unless User own or control the rights thereto or have received all necessary consent to do the same.
- Use any material or information, including images or photographs, which are made available through the Services in any manner that infringes any copyright, trademark, patent, trade secret, or other proprietary right of any party.
- Upload files that contain viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software or programs that may damage the operation of another's computer or property of another.
- Advertise or offer to sell or buy any goods or services for any business purpose, unless such Communication Services specifically allows such messages.
- Download any file posted by another user of a Communication Service that User know, or reasonably should know, cannot be legally reproduced, displayed, performed, and/or distributed in such manner.
- Falsify or delete any copyright management information, such as author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is uploaded.
- Restrict or inhibit any other user from using and enjoying the Communication Services.

- Violate any code of conduct or other guidelines which may be applicable for any particular Communication Service.
- Harvest or otherwise collect information about others, including e-mail addresses.
- Violate any applicable laws or regulations.
- Create a false identity for the purpose of misleading others.
- Use, download or otherwise copy, or provide (whether or not for a fee) to a person or entity any directory of users of the Services or other user or usage information or any portion thereof.

EnergySwitch has no obligation to monitor the Communication Services. However, EnergySwitch reserves the right to review materials posted to the Communication Services and to remove any materials in its sole discretion. EnergySwitch reserves the right to terminate User's access to any or all of the Communication Services at any time, without notice, for any reason whatsoever. EnergySwitch reserves the right at all times to disclose any information as it deems necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, in EnergySwitch's sole discretion.

Materials uploaded to the Communication Services may be subject to posted limitations on usage, reproduction and/or dissemination; User is responsible for adhering to such limitations if User downloads the materials. Always use caution when giving out any personally identifiable information in any Communication Services. EnergySwitch does not control or endorse the content, messages or information found in any Communication Services and, therefore, EnergySwitch specifically disclaims any liability with regard to the Communication Services and any actions resulting from User's participation in any Communication Services. Managers and hosts are not authorized EnergySwitch spokespersons, and their views do not necessarily reflect those of EnergySwitch.

LINKS TO 3RD PARTY SITES

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UNSOLICITED IDEA SUBMISSION POLICY

EnergySwitch or any of its employees do not accept or consider unsolicited ideas, including ideas for new advertising campaigns, new promotions, new products or technologies, processes, materials, marketing plans or new product names. please do not send any original creative artwork, samples, demos, or other works. the sole purpose of this policy is to avoid potential misunderstandings or disputes when EnergySwitch products or marketing strategies might seem similar to ideas submitted to EnergySwitch. So, please do not send your unsolicited ideas to EnergySwitch or anyone at EnergySwitch. If, despite our request that you not send us your ideas and materials, you still send them, please understand that EnergySwitch makes no assurances that your ideas and materials will be treated as confidential or proprietary.

MONITORING

EnergySwitch shall have the right, but not the obligation, to monitor the content of 'EnergySwitch Website', including chat rooms and forums, to determine compliance with this Agreement and any operating rules established by EnergySwitch and to satisfy any law, regulation or authorized government request. EnergySwitch shall have the right in its sole discretion to edit, refuse to post or remove any material submitted to or posted on 'EnergySwitch Website'. Without limiting the foregoing, EnergySwitch shall have the right to remove any material that EnergySwitch, in its sole discretion, finds to be in violation of the provisions hereof or otherwise objectionable.

INDEMNIFICATION

User agrees to defend, indemnify and hold harmless EnergySwitch, its affiliates and their respective directors, officers, employees and agents from and against all claims and expenses, including attorneys' fees, arising out of the use of EnergySwitch by User or User's Account.

TERMINATION

Either EnergySwitch or User may terminate this Agreement at any time. Without limiting the foregoing, EnergySwitch shall have the right to immediately terminate User's Account in the event of any conduct by User which EnergySwitch, in its sole discretion, considers to be unacceptable, or in the event of any breach by User of this Agreement.

MISCELLANEOUS

This Agreement and any operating rules for 'EnergySwitch Website' established by EnergySwitch constitute the entire agreement of the parties with respect to the subject matter hereof, and

supersede all previous written or oral agreements between the parties with respect to such subject matter. This Agreement shall be construed in accordance with the laws of the New South Wales Australia, without regard to its conflict of laws rules. No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. The section headings used herein are for convenience only and shall not be given any legal import.

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