

These terms and conditions, together with the Viva Energy Privacy Policy and any additional terms, conditions, notices and disclaimers displayed elsewhere on the Viva Energy Customer Portal ("Conditions") govern your use of and access to the Viva Energy Customer Portal.

## 1. Definitions

Unless otherwise defined in these Viva Energy Customer Portal terms and conditions, capitalized terms have the meaning provided below:

**'Access Credentials'** means user name, password, two factor and multifactor authentication credentials and **'Access Credential'** means any of these credentials.

**'Account Details'** means the Customer's information that has been provided to Viva Energy. **'Business Day'** means any day other than a Saturday, Sunday or national public holiday in Australia.

**'Customer'** means the entity or person/s set out in the Supply Terms to whom Viva Energy is supplying Products ('buyer') and each natural person nominated by the buyer and includes its End User except in relation to clause 3.1(a).

**'End User'** means the person or user accessing the Viva Energy Customer Portal other than Viva Energy.

**'Material'** means any text, illustrations, photos, audio, video, any combination of these or other material

**'Product'** means any good or service offered to the Customer under the Supply Terms.

**'Supply Terms'** means the existing supply agreement between the Customer and Viva Energy, or, if none, the Viva Energy Terms and Conditions with respect to any order placed with Viva Energy for goods or services provided by Viva Energy to the Customer.

**'Viva Energy'** means Viva Energy Australia Pty Ltd (ABN 46 004 610 459).

**'Viva Energy Customer Portal'** means the Viva Energy website for Customers to interact with Viva Energy.

## 2. Application of these Conditions

2.1 Access to and use of the Viva Energy Customer Portal is available on a restricted basis only to Customers:

- (a) who have accepted these Conditions and registered for access in accordance with these Conditions; and
- (b) whose access has not been suspended or restricted by Viva Energy. Any person or entity that is not a Customer is prohibited from accessing and/or using the Viva Energy Customer Portal.

2.2 These Conditions apply to the use of the Viva Energy Customer Portal and the Customer agrees to be bound by:

- (a) these Conditions with respect to its access and utilisation of any function of the Viva Energy Customer Portal; and
- (b) the Supply Terms.

In the event of any inconsistency, the Supply Terms shall take precedence over these Conditions.

2.3 These Conditions supplement the Supply Terms and do not replace nor amend the Supply Terms, except to the extent that these Conditions provide an additional means of placing orders with Viva Energy where the Customer has the option or obligation to place orders with Viva Energy under the Supply Terms. These Conditions are specifically for use of the Viva Energy Customer Portal. Viva Energy has no obligation to accept any order from the Customer and (unless expressly agreed to the contrary) the Customer has no obligation to place orders with Viva Energy under these Conditions. Viva Energy makes no warranty or guarantee as to the performance of or continued access to the Viva Energy Customer Portal.

2.4 While we use reasonable endeavours to ensure that the Viva Energy Customer Portal is available continuously, we do not make any representations or warranties that your access will be uninterrupted, timely, secure or error free. Access to all and/or part of the Viva Energy Customer Portal may be suspended without notice in the case of system failure, maintenance or repair or any reason beyond our control. Access to the Viva Energy Customer Portal may also be terminated or suspended from time to time at Viva Energy's discretion (including but not limited to where there is suspected fraud or misuse of the Viva Energy Customer Portal). Notice of any active suspension or termination of access to the Viva Energy Customer Portal will be provided to the Customer immediately using the Customer's latest email address provided to Viva Energy and as held on Viva

Energy's records.

- 2.5 We reserve the right to change or discontinue any website, feature or service (or part thereof) of the Viva Energy Customer Portal at any time without providing prior notice to you.

### 3. Registration to the Viva Energy Customer Portal

- 3.1 Customers must complete the registration process to gain access to the Viva Energy Customer Portal as instructed by Viva Energy. The registration can be done through the Viva Energy Customer Portal registration page and satisfying the conditions of the registration such as, but not limited to:
- (a) verification that the End User is a duly authorised person of the Customer and agrees to the Viva Energy Customer Portal Terms & Conditions on behalf of the Customer and use of this Portal for and on behalf of the Customer; and
  - (b) the Customer agrees to the Viva Energy Customer Portal Terms & Conditions.
- 3.2 After completing the registration process, Viva Energy will issue the Customer with Access Credentials for its nominated users through an email to the nominated Viva Energy Customer Portal email accounts. The Customer must ensure that their Access Credentials are kept confidential, and are protected from fraud or misuse.
- 3.3 In the event of any unauthorised use of any of the Customer's Access Credentials or any other breach of security of which the Customer becomes aware, the Customer must immediately notify Viva Energy of such unauthorised use or breach of security. (Refer to clause 4.3 below).
- 3.4 Viva Energy may at any time cancel or suspend any Access Credentials issued to the Customer if it suspects that there has been a breach of confidentiality or security or any unauthorised use of the Access Credentials.

### 4. Orders

- 4.1 The Customer acknowledges that an order is only deemed to have been submitted to Viva Energy once Viva Energy has sent an order confirmation email to the nominated email address of the Customer.
- 4.2 The Customer acknowledges that the Customer is solely responsible for ensuring that any order submitted through the Viva Energy Customer Portal on the Customer's account using the Customer's Access Credentials is correct. The Customer assumes full responsibility for transactions and orders made using its Access Credentials. Payment for orders placed using the Customer's Access Credentials must be paid by the Customer and shall be processed in the manner set out in the Supply Terms (including any other supplementary terms and conditions) and may include but is not limited to direct debit, or electronic bank transfer from the Customer's nominated account. Viva Energy shall not be liable for any delay in receipt or non-receipt of Product caused by the Customer's incorrect, accidental, or erroneous completion, or non-completion of any order in the Viva Energy Customer Portal or any delay or failure by the Customer to access the Viva Energy Customer Portal or transact using the Viva Energy Customer Portal, or any problems with connecting with the Viva Energy Customer Portal. Viva Energy is not required to verify the legitimacy or accuracy of any order placed through the Viva Energy Customer Portal using current Access Credentials.
- 4.3 Upon written notification and verification from the Customer that its Access Credentials have been compromised, Viva Energy will as soon as practical (within 1 Business Day) suspend the Customer's account and/or reset the Customer's Access Credentials. However, the Customer shall be liable for any orders placed using the Customer's Access Credentials up to Viva Energy receiving written notice and verification from the Customer that its Access Credentials have been compromised. 'Verification', for the purpose of this clause, means reasonable verification that the notice is genuine and from an authorised representative of the Customer.

### 5. Account Enquiries

- 5.1 All account enquiry requests received through the Viva Energy Customer Portal between 8am and 8pm AEST on a Business Day will be processed within approximately 48 hours. Account enquiry requests received outside business hours will be processed within approximately 48 hours commencing on the following Business Day.

### 6. Invoice Enquiries

- 6.1 All invoice enquiry requests received through the Viva Energy Customer Portal between 8am and 8pm AEST on a Business Day will be processed within approximately 5 days. Invoice enquiry requests received outside business hours will be processed within 5 days commencing on the following Business Day.

## 7. Change in Customer Details

- 7.1 The Viva Energy Customer Portal allows the Customer's nominated users to amend its Customer details. The Customer must ensure that orders placed through the Viva Energy Customer Portal and changes made to the Customer's account through the Viva Energy Customer Portal have been authorised by the Customer. The Customer shall be responsible for any changes made through current Access Credentials on the Viva Energy Customer Portal to its customer account details. Viva Energy is not required to verify the legitimacy or accuracy of any Customer account change placed through the Viva Energy Customer Portal using current Access Credentials.
- 7.2 The Customer must immediately notify Viva Energy in writing or through the Viva Energy Customer Portal of any change to the Customer's name, address, contact details and other account details provided to Viva Energy, including any change of director, other office-holder or GST status.

## 8. Incorrect, inaccurate or incomplete submissions

- 8.1 Incorrect, incomplete or inaccurate entries made to the Customer's account details or incorrect, incomplete or inaccurate orders placed on the Customer's account using the Customer's Access Credentials through the Viva Energy Customer Portal may impact on the supply of Products to the Customer (including but not limited to potential delays in supply), and affect invoicing and Viva Energy's ability to contact the Customer to manage, upkeep or correct any details. While Viva Energy will use its reasonable endeavours to minimise the impact on supply of Products to the Customer, Viva Energy shall not be responsible for any consequences of incorrect, incomplete or inaccurate entries made to the Customer's account details or incorrect, incomplete or inaccurate orders placed on the Customer's account using the Customer's Access Credentials.
- 8.2 The Customer acknowledges that the Customer has made and relies on its own investigations and its own assessment of the suitability of using the Viva Energy Customer Portal with respect to managing its account with Viva Energy, making enquiries and placing orders.
- 8.3 To the extent permitted by law, neither Viva Energy nor its Affiliates under or in connection with these Conditions shall have any liability for any:
- (a) loss of profits, income, revenue, contracts or production;
  - (b) business interruption or increased costs in operations;
  - (c) damage to goodwill or reputation;
  - (d) damage to plant, equipment or machinery as a result of any late delivery of Products;
  - (e) indirect losses or expenses or consequential damage whatsoever, even if such loss, expense or damage may reasonably be supposed to have been in the contemplation of both parties as a probable result of the relevant default, whether suffered by the Customer or any third party.
- 8.4 Where the law applies guarantees, warranties or conditions into the provision of access to the Viva Energy Customer Portal site or the services contained therein by Viva Energy and Viva Energy is not permitted by law to exclude them, then those guarantees, warranties or conditions will apply. All other guarantees, warranties or conditions are excluded, including without limitation that the Viva Energy Customer Portal site or the services therein would be available, uninterrupted or timely or that the Viva Energy Customer Portal site or the services therein will be secure, error free or virus free.

## 9. Intellectual Property

- 9.1 The Viva Energy Customer Portal contains Material that is protected by copyright, trade mark and other laws. No right, title or interest in or to any proprietary rights relating to the Viva Energy Customer Portal is transferred or granted to any Customer. Such intellectual property and proprietary rights in relation to the Viva Energy Customer Portal remain with Viva Energy.
- 9.2 Nothing displayed on the Viva Energy Customer Portal shall be construed as granting any right of use in relation to any logo, brand, indicia of origin, or trademark displayed on the Viva Energy Customer Portal without the express written consent of the relevant owner.

## 10. Privacy & Data Protection

- 10.1 The Customer acknowledges that it consents to use of its information in accordance with the Privacy Policy (as amended from time to time). If you choose to use any of Viva Energy's services including accessing or using the Viva Energy Customer Portal, then you agree to the collection and use of information in relation with Viva Energy's Privacy Policy. The Personal Information that we collect specifically under and with respect to the Viva Energy Customer Portal in addition to the Viva Energy Privacy Policy, is disclosed by you as part of your registration. Save for where stated in this document and the Viva Energy Privacy Policy, we will not pass your Personal Information to anyone else, except for any successors in title to our business and suppliers that process data on our behalf both in Australia and abroad.
- 10.2 The Customer acknowledges that it has read and understood the Viva Energy Australia Privacy Policy available at [www.vivaenergy.com.au](http://www.vivaenergy.com.au) (as amended from time to time) ("Privacy Policy"). Viva Energy will comply with the Privacy Policy (as amended from time to time).
- 10.3 Viva Energy may use Cookies (pieces of programming) in accordance with the Cookies Policy contained in the Viva Energy Privacy Policy.
- 10.4 Viva Energy will take all reasonable steps to ensure that all personal information held by Viva Energy is secure from any unauthorised access or disclosure. However, Viva Energy does not guarantee that personal information cannot be accessed by a non-Viva Energy person (eg hacker) or that unauthorised disclosures will not occur. If Viva Energy provides you with any passwords or other security devices or Access Credentials then it is important that you keep these secret and confidential and do not allow them to be used by any other person. You must notify Viva Energy immediately if the security of these devices is breached to prevent the unauthorised disclosure of your information.

## 11. Use Restrictions

- 11.1 The Customer must not directly or indirectly (including through negligence) use or permit the access or use of the Viva Energy Customer Portal and Material obtained from the Viva Energy Customer Portal:
- (a) in breach of any applicable laws or regulations;
  - (b) to:
    - (i) transmit (or authorise the transmission of) unsolicited messaging, communication or emails, or spam;
    - (ii) impersonate any person or entity;
    - (iii) solicit money, materials or information from any person;
    - (iv) harm, abuse, harass, stalk, threaten or otherwise offend others;
    - (v) establish, maintain or provide, or assist in establishing, maintaining or providing your own publications, internet site or other means of distribution; or
  - (c) to upload, post, transmit or otherwise make available (or attempt to upload, post, transmit or otherwise make available) any Material other than Product ordering details as requested or required by Viva Energy to supply you, the Customer with the Product in accordance with the Supply Terms.
  - (d) with any automated scripting tool or software; or
  - (e) for any unlawful purpose.
- 11.2 The Customer must ensure that the Customer does **not** directly or indirectly do or cause any of the following:
- (a) interfere with, disrupt, or create an undue burden on the Viva Energy Customer Portal;
  - (b) use any robot, spider, or other device or process to retrieve, index, or in any way reproduce, modify or circumvent the navigational structure, security or presentation of the Viva Energy Customer Portal;
  - (c) frame or mirror any part of the Viva Energy Customer Portal without our prior written authorisation;
  - (d) use code or other devices containing any reference to the Viva Energy Customer Portal to direct other persons to any other web page;
  - (e) except to the extent permitted by law, modify, adapt, sublicense, translate, sell, reverse

engineer, decipher, decompile or otherwise disassemble any portion of the Viva Energy Customer Portal or cause any other person to do so;

- (f) delete any attributions or legal or proprietary notices on the Viva Energy Customer Portal;
- (g) except for the temporary copy held in your computer's cache and a single permanent copy for your personal reference, use, store, reproduce, publish, alter or transmit in any form or by any means in whole or part without our prior written approval any Material from the Viva Energy
- (h) link to the Viva Energy Customer Portal from any other website (or otherwise authorise any other person to link from a third party website to the Viva Energy Customer Portal) without our prior written consent.

If you think that the Viva Energy Customer Portal has been accessed or used by another user in breach of the Conditions, please email us at [Business.Excellence@vivaenergy.com.au](mailto:Business.Excellence@vivaenergy.com.au). We will use our reasonable endeavours using the information you provide to consider and/or investigate the matter however we may not necessarily contact you in response to your notice.

## 12. General

- 12.1 Viva Energy reserves the right to vary these Conditions at any time, in its absolute discretion, by giving the Customer not less than 14 days' notice in writing. Such notice may be placed on the Viva Energy Customer portal website - <https://b2b.vivaenergy.com.au/>.
- 12.2 The Customer may discontinue its use of the Viva Energy Customer Portal at any time.
- 12.3 If these Conditions are entered into by an agent acting for or on behalf of the Customer, whether such agency is disclosed or undisclosed, then such agent shall be liable (as well as the Customer) not only as agent but also as principal for the performance of all the obligations of the Customer.
- 12.4 If the Customer carries on business as a trustee, the Customer is bound by the terms and conditions of these Conditions both as trustee and in its own capacity.
- 12.5 Viva Energy will not be responsible for any failure to comply or any delay in complying with any of these Conditions if compliance has been delayed, hindered, interfered with or prevented by any cause beyond Viva Energy's reasonable control, a strike, lock-out or other industrial action (whether or not Viva Energy is a party to it or would be able to influence or procure its settlement), or compliance with a government request.
- 12.6 Viva Energy may terminate or suspend the Customer's access to all or part of the Viva Energy Customer Portal, immediately upon notice (including by email), for any conduct that is in violation of the Supply Terms or these Conditions or any applicable law. Viva Energy may also terminate the Customer's access to the Viva Energy Customer Portal if it ceases to have existing Supply Terms with Viva Energy.
- 12.7 The failure of Viva Energy to insist upon strict performance of any of the provisions of these Conditions will not be deemed a waiver of any subsequent breach of or default in these Conditions by the Customer.
- 12.8 If any term of these Conditions or any part thereof is or becomes or is declared illegal, invalid or unenforceable for any reason whatsoever in any jurisdiction and such term or part is severable, it is deemed deleted from these Conditions in the relevant jurisdiction.
- 12.9 These Conditions are governed by the laws in force in the State of Victoria, and any proceedings arising out of these Conditions shall be determined by a court of competent jurisdiction in that State.

## 13. Acceptance of Terms and Conditions

- 13.1 By selecting the 'I accept' option on the login page, I agree on my own behalf and on behalf of the Customer (as the buyer) that, when using the Viva Energy Customer Portal site, I am and the Customer is bound by, and will comply with, these Conditions, as amended from time to time.