

## **ENERGY PARTNERS HOLDINGS PROPRIETARY LIMITED, ITS SUBSIDIARIES AND AFFILIATES ("EP GROUP") POLICY**

**Policy Title:** Competition Law Compliance Policy

**Policy Number:** 002

**Policy Owner:** Legal Department

**Policy Approved By:** Group Exco

**Effective Date:** 13 June 2025

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### **1. Policy Statement**

The EP Group is committed to conducting business in a manner that promotes fair competition in compliance with the **Competition Act No. 89 of 1998 ("the Act")**. This policy aims to guide all employees, directors, and stakeholders in avoiding anti-competitive practices and ensuring adherence to the principles of fair competition.

### **2. Purpose**

The purpose of this policy is to establish standards and procedures to ensure compliance with South African competition law. This includes preventing practices such as price fixing, market allocation, and abuse of dominance that could harm the competitive environment and the EP Group's reputation.

### **3. Scope**

This policy applies to all employees (including contractors and temporary staff), directors, consultants, contractors, and agents of the EP Group and covers all interactions with competitors, customers, and suppliers in the South African market.

### **4. What is Competition Law?**

The purpose of competition law is to promote and maintain effective competition in the marketplace. Economies and consumers benefit from a level playing field resulting in lower prices, a wider array of products and services and enhanced productivity and innovation.

Compliance with competition law enables the EP Group to safeguard its reputation and strengthen its bond of trust with employees, customers, suppliers, communities, shareholders and other stakeholders by being a reliable and honest market participant.

Competition laws guard against anti-competitive agreement (dealing with competitors, trade associations and with customers and suppliers) and the abuse of dominance. Each of these will be addressed in more detail below.

## 5. Definitions

- **Price Fixing:** Any agreement, informal or formal, between competitors to fix purchase or selling prices or price components / trading conditions.
- **Market Allocation:** Dividing markets by allocating market shares, territories, suppliers, specific products or services, or customers between competitors.
- **Bid Rigging:** Collusion between competitors to influence the outcome of bidding processes.
- **Resale Price Maintenance:** Imposing minimum or fixed resale prices on resellers.
- **Abuse of Dominance:** Conduct by a dominant firm to exclude competitors or limit competition.

## 6. Roles and Responsibilities

### 6.1 Directors and Executives

- Uphold the principles of fair competition and compliance across all levels.
- Ensure adherence to this policy and set an example for ethical conduct in business.

### 6.2 Managers

- Ensure team members are aware of and understand competition law requirements.
- Support the implementation of the policy within their teams.

### 6.3 Employees

- Comply with all aspects of this policy.
- Report any suspected competition law violations to the legal department or designated reporting channels.

## 7. Prohibited Conduct

The EP Group prohibits any engagement or facilitation in activities that violate competition law. This includes, but is not limited to:

### 7.1 Dealing with Competitors

The underlying principle is that all business decisions should be made based on independent judgment and not based on agreements, consensus or cooperation between actual or potential competitors. Such agreements amount to cartel behaviour and, by their very nature, restrict and distort competition. There are no objective grounds on which these types of cartel agreements may be defended, and they will always result in substantial penalties.

EP Group and its employees are not permitted to enter into any agreement<sup>1</sup> with its actual or potential competitors<sup>2</sup> to:

- fix or influence the sale price, or the purchase price or other trading terms of sale or purchase;
- divide or allocate market shares, customers, suppliers, territories, or specific types of goods or services; and
- manipulate the outcome of a tender or bid, such as cover pricing, bid rotation, bid suppression or exchange information relating to tenders or bids, even if no actual agreement is reached.

#### DOS AND DON'TS WHEN DEALING WITH COMPETITORS

DOs	DON'Ts
DO avoid contact unless you have a legitimate reason for it. Go on record regarding the purposes of your meeting	DON'T discuss or agree to price initiatives, price targets, price ranges, profit margins, price recommendations, "floor" or minimum prices, timing and/or amounts of price increases
DO ensure meeting minutes are made as it shows that the meeting had a legitimate purpose and was not used as a forum for illegal cartel conduct between competitors	DON'T discuss any element or component of price such discounts, rebates, commissions, formulas, transport charges, surcharges, or credit terms; and the timing or withdrawal of a promotional offer or rebate
DO limit conversations with competitors to generic market, business and industry topics, without sharing or agreeing on mutual actions	DON'T discuss or agree to the boycotting of any customers, competitors or suppliers
DO respond to anti-competitive offers or suggestions by making clear that the EP Group does not wish to be involved in any cartel conduct	DON'T agree on future pricing strategies or output or disclose sensitive information relating to the bid, including general commercial strategy, prices offered to other customers or detailed information on your cost base with your competitors
DO rely on competitors' publicly available information (such as published articles, advertisements, publicly distributed brochures, independent surveys, information volunteered by customers in the course of genuine negotiations) for comparative purposes in order to offer competing prices, provided the determination of such prices is arrived at independently and not in discussion	DON'T allow access to, seek access from or discuss confidential or other unpublished business information (such as prices, surcharges, costs of production or distribution, profitability, strategy, business and marketing plans, product development plans, information on customers)

<sup>1</sup> The term "agreement" is very broad and extends to a contract, arrangement or understanding, whether or not legally enforceable. It also covers both written and verbal formats, and in some instances, it can be inferred from conduct alone.

<sup>2</sup> A competitor is a firm that is engaged (or intends or proposes to engage) in the same line of business as any entity in the EP Group.

with a competitor. The source of all publicly obtained market intelligence must be recorded in writing	
DO unilaterally set and amend prices	DON'T discuss or agree to restrictions concerning markets or marketing schedules, or on joint actions designed to fix or manipulate the evolution of market shares artificially

If the EP Group or its employee is involved in or becomes aware of any breach of the principles listed above, it must be reported immediately in accordance with section 8.4 below.

## 7.2 Trade Associations

Legitimate information sharing in certain types of markets may have the effect of building dynamic and innovative industries and may therefore be regarded as efficiency-enhancing and pro-competitive. However, the exchange of information between competitors may fall foul of competition law by constituting price fixing, market allocation or bid rigging / collusive tendering, or by leading to the avoidance of competition due to knowledge of one another's strategies and intentions.

Care is required in relation to the EP Group and employees that participate in trade associations, professional associations and other industry gatherings ("**Trade Associations**"). Although it is perfectly legitimate for the EP Group and employees to participate in Trade Associations, such activities are not allowed to go beyond a legitimate purpose and notably should not be used as a forum for cartel conduct between competitors.

Employees must alert their managers before attending Trade Association events, or before any meeting with a competitor. Employees that attend Trade Association events or who otherwise have contact with competitors must be properly trained in how to behave in such situations in terms of competition law compliance, as well as what to do if competition law risks arise.

### DOS AND DON'TS WHEN DEALING WITH TRADE ASSOCIATIONS

DOs	DON'Ts
DO obtain approval before joining any Trade Association so its code of conduct or compliance policy on competition law can be reviewed. Obtain approval to join the board or any decision-making body of the Trade Association <sup>3</sup>	DON'T exchange commercially sensitive information with your competitors (i.e. pricing, quantities, strategic information such as production costs, demand, customer lists, turnovers, sales, capacities or marketing plans)



DO ensure that an agenda is prepared in advance of any meeting and that this agenda is strictly complied with. Ensure that minutes are recorded and distributed	As a Trade Association, DON'T issue advice to the members on any commercially sensitive issues, such as price and cost factors
DO discuss public policy, educational and scientific developments, regulatory matters of general interest (including Government-imposed prices or reimbursement policies), demographic trends, generally acknowledged industry trends	DON'T share information regarding future pricing or future intended conduct on the market with your competitors
DO discuss publicly available information and historical information that do not relate to future business	DON'T use the Trade Association as a body to take decisions which would not be allowed if taken by a company or a group of competitors
DO distance yourself from any decision taken or to be taken by the Trade Association which may infringe competition laws. Leave the meeting if any anti-competitive discussions are held or proposed, or practices contemplated and make sure that your action is recorded. Apply the same principles in discussions outside the formal Trade Association meeting	DON'T implement any decision taken by a Trade Association which may infringe on competition laws

If the EP Group or the Employee is involved in or becomes aware of any breach of the principles listed above, it must be reported immediately in accordance with clause 8.4 below.

### **7.3 Dealing with Suppliers and Customers**

Agreements with suppliers, distributors and customers for the purchase and sale of goods or services are part-and-parcel of doing business. These agreements are referred to as vertical agreements because each firm participates at a different level in the production or distribution chain (for example an agreement between the manufacturer and the reseller). Under certain market conditions and depending on the relative market strength of the parties concerned, vertical agreements may be unlawful.

Resale price maintenance is prohibited. This means a supplier may not impose on its buyers, distributors, or dealers a (minimum) resale price. Suppliers should never dictate the price level at which the buyer should re-sell the products or services. It is also prohibited to intimidate, delay or suspend deliveries or terminate contracts to ensure that a certain price level is preserved.

Specific examples are fixed maximum level discounts, fixed distribution margins, linking discounts or promotional cost rebates to maintaining particular price levels. It is also not allowed to reward resellers based on their conformity with suggested resale prices.

A supplier or producer may recommend a minimum resale price to the reseller of goods or services provided the supplier or producer makes it clear to the reseller that the recommendation is not binding.

Depending on the market circumstances, the following arrangements in vertical agreements can be problematic and, the EP Group and employees should exercise caution and seek legal advice before engaging in any vertical agreement containing:

- exclusivity rights<sup>4</sup> and non-compete provisions<sup>5</sup>; or
- long-term supply agreements for the majority of the purchaser's requirements.


#### **7.4 Abuse of Dominance**

Many jurisdictions have legislation prohibiting the abuse of a dominant position. Dominant firms are less subject to normal competitive restraints, and as such, have a special responsibility not to engage in conduct calculated to exclude competitors or exploit customers.

The EP Group seeks to compete by offering better prices, products and services. Such conduct should, rightly, result in an increased market share. However, EP Group will be considered dominant in any market where it has a 35% or greater market share. Please note that 'relevant markets' from a product/service perspective as well as a geographic perspective may differ depending on the particular conduct or complaint at hand.

In such markets, EP Group and employees should exercise caution and seek legal advice before:

- charging prices that are unusually or unreasonably high (excessive pricing);
- charging prices on a sustained basis that are so low that they do not cover costs (predatory pricing);<sup>6</sup>
- offering different prices or terms to similar customers without objective justification (price discrimination);
- treating small, medium or black-owned suppliers or customers unfairly or prejudicially relative to larger suppliers or customers;
- forcing customers to buy a bundle of unrelated products or services;
- refusing to supply an existing or long-standing customer without objective justification;
- supplying another EP Group entity at prices that are significantly lower than those offered to customers outside the EP Group (margin squeeze); and

  
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<sup>4</sup> Agreements to purchase or sell exclusively will prevent rivals from accessing the exclusive customer or supplier and thus limit competition. Exclusive arrangements that last for less than 3 years and which do not cover a significant portion of demand or supply for the relevant product are less problematic.

<sup>5</sup> For instance, an agreement between buyer and seller that the seller will not compete with the buyer in a downstream market.

<sup>6</sup> Sustained below-cost pricing is most likely to be of concern. Short-term promotions or pricing to meet competitor promotions are typically allowed provided they are not calculated to result in market exits.

- generally engaging in practices that prevent or unduly exclude the opportunity of others to compete fairly in the market.

## **8. Compliance Procedure**

### **8.1 Training and Awareness**

- Regular training as prescribed by the directors will be provided to all employees on competition law principles.
- New employees will undergo compliance training as part of their induction.

### **8.2 Contract Review**

- All contracts and agreements with customers, suppliers, and competitors will be reviewed to ensure compliance with competition law.

### **8.3 Monitoring and Audits**

- Regular audits and monitoring procedures will be conducted to assess compliance levels.

### **8.4 Reporting and Investigations**

- Employees are encouraged to report suspected policy violations. Reports may be submitted confidentially to the legal department.
- If an employee is uncertain as to a matter of application of competition law or this policy, the employee should immediately talk to the legal department to seek initial advice, information or guidance.
- Reported incidents will be investigated thoroughly, with findings addressed by the Management Committee.
- If an employee is requested, in writing or verbally, by the competition authorities to furnish information (whether in relation to a matter that EP Group is involved in or not), the employee must immediately notify his/her manager or the legal department, before taking any action. Employees may not ignore a request from the competition authorities, may not reply to the competition authorities without following the aforesaid procedure, and may not discard or delete emails or documents that are subject to an inquiry by the competition authorities.

## **9. Whistleblower Protection**

Employees who report suspected violations in good faith are protected under this policy from retaliation. Retaliation against employees who report violations will be subject to disciplinary action.

## 10. Non-Compliance Consequences

The consequences of non-compliance are significant both for the EP Group and for any employee whose conduct is the basis of the transgression:

- Fines: up to between 10% and 25% of annual turnover.
- Criminal sanctions: a company's executives, directors and employees in a management position involved in, or who knowingly allow, anti-competitive cartel conduct can face fines up to R500,000 and/or imprisonment of up to 10 years.
- Lawsuits: third parties can sue for civil damages resulting from the infringement of anti-competitive conduct.
- Contractual Risks: Anti-competitive terms contained in an agreement can lead to the offending clause or even the whole agreement being deemed void which may make such agreement with a customer, supplier or competitor unenforceable.
- Reputational and other business risks: There are other risks associated with competition law transgressions including the likelihood of associated adverse publicity and harm to a firm's reputation in the marketplace, disqualification from doing business in a market, disqualification of directors or other senior employees, termination of employment and the costs of defending an investigation or a complaint require significant time, resources and management input.

## 11. Policy Review and Updates

This policy will be reviewed as required by changes in legislation or business operations. Updates will be communicated to all employees.

## 12. Acknowledgment and Training Requirement

All employees must acknowledge their understanding and acceptance of this policy in writing in the prescribed attestation declaration attached hereto as **Annexure A**. Refresher training will be mandatory for all employees to ensure continued awareness and adherence.

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### Approved By:

- Kurt Miller
- **Position:** CFO
- **Date:** 13 June 2025

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### Document Control

- **Document Version:** 1
  - **Issued By:** Legal Department
  - **Review Cycle:** As directed by the Board
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**Annual Attestation of Compliance: Competition Law****Date:** [Insert]

As an employee of Energy Partners Holdings Proprietary Limited (including any of its subsidiaries and/or associates) ("**EP Group**"), I hereby acknowledge and attest to the following:

**1. Awareness and Understanding:**

- I have read and understood the Competition Law policies and guidelines provided by and applicable to the EP Group.
- I am aware of the key principles of Competition Law in South Africa, based on the Competition Act 89 of 1998, as amended, including but not limited to prohibitions on anti-competitive agreements, abuse of dominant positions .

**2. Compliance:**

- I commit to complying with all applicable Competition Laws and regulations in South Africa including the EP Group's policies ("**Competition Laws**")
- I will not engage in any conduct that could be considered anti-competitive or in violation of Competition Laws. I will not act in a manner that is inconsistent with the Competition Laws or otherwise authorise or condone violations of the Competition Laws.

**3. Reporting:**

- I understand my obligation to report any suspected violations of Competition Law to the appropriate compliance officer or legal department within EP Group.
- I am aware of the procedures for reporting and the protections in place for whistleblowers.

**4. Training and Updates:**

- I have participated in the required training sessions on Competition Law provided by EP Group.
- I will stay informed about any updates or changes to Competition Law and EP Group's policies.

By signing this attestation, I confirm my commitment to uphold the principles of Competition Laws and to act in the best interest of fair competition.

**Employee Name:** Kurt Miller**Employee Signature:** **Date:** 13 June 2025