

## Terms of Use for IEDR Platform

These Terms of Use for IEDR Platform ("TOU") govern your access to and use of the Platform (defined below) offered by E Source Companies LLC ("E Source") and its Licensors (defined below). By using the Platform, you acknowledge and agree you have read, understand, and agree to be legally bound to these TOU. If you use the Platform on behalf of an organization, you agree to these TOU on behalf of that organization and you represent to E Source you have the authority to do so. In such case, "you" and "your" will refer to that organization. E Source and you are sometimes individually referred to as a "Party" and collectively referred to as the "Parties." Accordingly, the Parties agree as follows:

### 1. The Platform.

a. E Source operates, in conjunction with its licensors and subcontractors (its "Licensors"), the Integrated Energy Data Resource online platform (the "Platform") that allows access to public information, utility information, Utility Customer information, and other information that may or may not be confidential, personal, or proprietary, and which generally originates in the state of New York ("Data"). For purposes of these TOU, "Utility Customer" means a residential or business entity consuming services and receiving an invoice from a utility operating in the state of New York. Subject to these TOU, E Source hereby grants you a non-exclusive, revocable, and nontransferable (except in accordance with Section 12) license to access and use the Platform during the Term.

b. In order to use certain features of the Platform, you will be required to establish an account with UtilityAPI, Inc. ("UtilityAPI"), a Licensor to E Source, through which you will be able to submit requests to Utility Customers for Data and receive that Data once authorized for release. Such UtilityAPI account, to the extent used in connection with your use of or access to the Platform or Data, constitutes part of the "Platform" and such use is subject to these TOU. You acknowledge and agree that UtilityAPI, with its successors and assigns, is an intended third-party beneficiary of your representations, warranties, covenants, and agreements set forth in these TOU, with the right to enforce such provisions.

c. Use of the Platform is subject to your compliance with these TOU and all policies that further govern your access to or use of the Platform ("Policies"), including those available at Privacy Policy and [Disclaimer](#). E Source may publish or amend the Policies at any time for any reason. If you use the Platform, you will be bound by the Platform's then-current Policies. E Source will post all updates to these TOU and the Policies and your continued use of the Platform after the modifications will constitute your: (i) acknowledgment of the modified TOU and Policies; and (ii) agreement to abide and be bound by the new TOU and Policies. E Source may change any aspect of the Platform without notice to you.

### 2. Use of the Platform.

a. You shall maintain the security of your log-in credentials to the Platform. You are responsible for any expense, loss, or liability caused by the loss or breach of those credentials.

b. You shall not use the Platform or any of its code or APIs to: (i) violate the security of, or gain unauthorized access to, the Platform or any computer, device or system; (ii) discover passwords or encryption codes; (iii) use any robot, spider, or retrieval application, or other device, to retrieve or index any portion of the Platform; (iv) attempt to duplicate any part of the Platform or its code, or to attempt to reverse engineer, decompile or otherwise gain access to any software component or code, or to attempt to create a substitute or competing Platform; (v) disrupt the functionality of the Platform or disrupt another user's use of or access to the Platform; (vi) access or use the Platform or the Data in a

way that circumvents a contractual usage limit; (vii) circumvent any technological measures implemented to prevent framing or mirroring of any part of the Platform; (viii) store or transmit (A) malicious code, viruses, or spam, (B) unsolicited marketing communications, (C) infringing, libelous, or otherwise unlawful or tortious material, or (D) any material in violation of third-party proprietary, privacy, or similar rights; or (ix) promulgate any unfair or deceptive practices or in contravention of any law or administrative rules or regulations (including but not limited to the federal CAN-SPAM regulations and the TCPA).

c. You agree to be responsible for your authorized users' compliance with these TOU, use commercially reasonable efforts to prevent unauthorized access to or use of Platform, and notify E Source promptly of any such unauthorized access or use.

d. You represent and warrant that you will comply with all applicable laws, regulations, and duties applicable to your use of the Platform and your collection, use, and treatment of Data. You understand that none of E Source or its Licensors has any obligation to, and will not, advise you as to such laws, regulations, and duties.

e. When you send e-mail to us, you are communicating electronically and you consent to receive communications from us electronically. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically, via the Platform or otherwise, satisfy any legal or contractual requirement that such communications be in writing.

### **3. Data, Usage Data, and Anonymized Data.**

a. The Data made available through the Platform is obtained from various sources and is provided for informational purposes only. None of E Source, its Licensors, and responsible parties make any representations or assurances as to the accuracy, completeness, reliability, or suitability of the Data. The Data may be subject to errors, omissions, changes, or updates without notice. E Source, its Licensors, and responsible parties are not liable for any damages or losses arising from your use of or reliance on the Data.

b. Subject to these TOU, E Source hereby grants you a non-exclusive, revocable, nonsublicenseable, nontransferable license to access and use the Data that is made available to you through the Platform during the Term for your personal or internal business use.

c. You grant E Source (including any Licensors, hosting providers, or other contractors acting on its behalf) a worldwide, non-exclusive, perpetual, irrevocable, royalty-free license to access, use, copy, distribute, perform, and display data and information submitted by you through the Platform, including account information, and information collected from your use of the Platform, such as request logs and session cookies ("Usage Data"): (i) as reasonably necessary to provide the Platform; (ii) to prevent or address service or technical problems or in connection with customer support matters; (iii) to improve or modify the Platform; and (iv) as compelled by law or as otherwise permitted in writing by you.

E Source and its Licensors may aggregate, anonymize, or otherwise de-identify any information or data, including Usage Data, collected from you or your authorized users and use and disclose such information or data without restriction, provided such aggregated, anonymous, or otherwise de-identified information or data does not individually identify you ("Anonymized Data") prior to disclosure to a third party, except that E Source or such Licensor may disclose individually identifiable

information or data to its licensors or contractors who are subject to confidentiality obligations. E Source or such Licensor, as applicable, retains all intellectual property rights in Anonymized Data.

#### **4. Confidentiality.**

a. As a condition of the licenses granted in Sections 1 and 3, you agree to treat all Data and other information disclosed through the Platform as confidential, unless and until such information has been made generally available to the public through no fault of yours.

b. You shall not reproduce or distribute the Data or other information available through the Platform, in whole or part, other than as required by law or a court order, in any judicial, administrative or governmental proceeding, subject to your prior notification to E Source, to the extent such notice is legally permitted.

c. On termination of these TOU, you shall promptly destroy all copies, whether in written, electronic, or other form, of the Data and other information provided by the Platform.

#### **5. Intellectual Property.**

a. As between the Parties, E Source and/or its Licensors own all right, title, and interest, including all intellectual property rights, in and to the Platform, and the Platform remains the sole property of E Source and/or its Licensors. No rights to the Platform are granted to you hereunder other than as expressly set forth herein.

b. E Source and/or its Licensors own all right, title, and interest in all intellectual property rights in its and their domestic and foreign trademarks, service marks, trade names, logos, and domain names ("Marks"), and all Anonymized Data collected or stored in connection with the Platform.

c. E Source and/or its Licensors may use any feedback received from you to create, develop, or modify the Platform or any other concept, brand, software code, product, or feature ("Improvements"), and E Source or the applicable Licensor owns all intellectual property rights in such Improvements. If you are deemed to have any ownership interest or rights in an Improvement, then you hereby assign all of those interests and rights to E Source or the applicable Licensor.

**6. Term and Termination.** The term of these TOU commences on the day you begin using the Platform and continues until these TOU are terminated ("**Term**"). Either Party may terminate these TOU for any reason by giving the other Party written notice and, upon such termination, your right to use the Platform will immediately terminate. E Source may, with or without notice, suspend, terminate, or otherwise deny your or any other person's access to or use of all or any part of the Platform (and UtilityAPI may terminate your access to your UtilityAPI account), without incurring any resulting obligation or liability. Sections 2.d., 3.c., and 4-12 shall survive the expiration or termination of these TOU and any termination of your use of the Platform.

**7. Due Authority.** Each Party represents that it has validly entered into these TOU and has the legal power to perform all of its obligations hereunder.

**8. Disclaimer of Warranties.** Except as set forth in Section 7, E Source and its Licensors hereby disclaim all warranties, representations, or guarantees of any kind related to the Platform or Data. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE PLATFORM AND DATA IS AT YOUR SOLE RISK AND THE PLATFORM AND THE DATA ARE PROVIDED "AS IS" AND WITHOUT REPRESENTATION OR

WARRANTY OF ANY KIND FROM E SOURCE AND/OR ITS LICENSORS, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, LACK OF VIRUSES, COMPATIBILITY WITH THE PLATFORM, OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS.

**9. Limitation of Liability.** NEITHER E SOURCE NOR UTILITYAPI NOR ANY OF E SOURCE'S OTHER LICENSORS WILL BE LIABLE (WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY, OR OTHER THEORY), OR OTHERWISE) TO YOU OR ANY OTHER PERSON FOR COST OF COVER, RECOVERY, OR RECOUPMENT OF ANY INVESTMENT MADE BY YOU OR YOUR AFFILIATES IN CONNECTION WITH THESE TOU OR THE PLATFORM, OR FOR ANY LOSS OF PROFIT, REVENUE, BUSINESS, OR DATA OR PUNITIVE, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THESE TOU OR THE PLATFORM, EVEN IF ADVISED OF THE POSSIBILITY OF THOSE COSTS OR DAMAGES. FURTHER, E SOURCE'S AND ITS LICENSORS' COLLECTIVE AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TOU AND/OR YOUR USE OF THE PLATFORM OR ANY DATA WILL NOT EXCEED AT ANY TIME \$100. THE DISCLAIMERS AND EXCLUSIONS AND LIMITATIONS OF LIABILITY CONTAINED IN SECTION 8 AND THIS SECTION 9 ARE A MATERIAL PART OF E SOURCE'S AGREEMENT TO PROVIDE THE PLATFORM TO YOU AND SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, AND SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

**10. Indemnification.** You will defend, indemnify, and hold harmless E Source and UtilityAPI, and its and their officers, directors, employees, agents, and contractors, against any third-party claim, loss, damage, settlement, cost, expense, or other liability (including, without limitation, attorneys' fees) (each, a "Claim") arising from or related to (i) your actual or alleged breach or violation of these TOU, and (ii) any breach of Data or security breach of the Platform associated with your log-in credentials or any other acts or omissions by you. You may not consent to the entry of any judgment or enter into any settlement of a Claim without the prior written consent of E Source or UtilityAPI, as applicable, which may not be unreasonably withheld.

**11. Governing Law and Venue.** These TOU and any dispute, proceeding, or claim of any nature arising out of or in any way relating to these TOU shall be governed by the laws of the State of New York, without regard to its choice of law rules, and the Parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of the state and/or federal courts sitting in New York, New York, in all matters arising out of or in any way relating to these TOU.

**12. Miscellaneous.** These TOU shall not be transferred or assigned by you without the written consent of E Source. E Source may transfer its rights and obligations under these TOU in conjunction (i) with a sale of all or substantially all of its assets or equity, (ii) with a merger or similar transaction, or (iii) to another entity that takes over the Platform; provided the acquiring or resulting entity agrees to be bound by these TOU. Any purported assignment in violation of this Section is void. No waiver of any term or condition in these TOU shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of a party to assert a right under these TOU shall not constitute a waiver of such right or provision. If any provision of these TOU is found to be illegal or unenforceable, the other provisions shall remain effective and enforceable to the greatest extent permitted by law. Failure to enforce these TOU shall not constitute a waiver of any term hereof. All notices must be in writing and sent to the other Party through the contact information provided in the Platform. Notices are deemed effective upon receipt. Nothing herein shall be construed as creating a partnership, joint venture, or agency or any other relationship. Except for any Data Sharing and Services Agreement that may have been separately entered into by the Parties, these TOU are the entire understanding between the Parties regarding its subject matter and supersede all prior understandings

and agreements, whether oral or written, regarding that subject matter. Other than UtilityAPI and the indemnitees set forth in Section 10, there are no third-party beneficiaries to these TOU.

**13. Support.** User support is available by contacting [iedr-support@esource.com](mailto:iedr-support@esource.com). Certain services may offer separate or additional user support. Support may not be available for preview or beta versions of certain features.