



Third-Party Terms and Conditions

Last Updated: September 27, 2023

Terms of service

Connect My Data

Terms and Conditions of Access and Use

CONTEXT

- A. Elexicon Energy is an Ontario local distribution company having its head office 55 Taunton Road E., Ajax, ON L1T 3V3 (the “**LDC**”).
- B. [3rd Party] is a [jurisdiction] corporation having its head office at [address] (“**you**” or “**Applicant**”).
- C. Connect My Data (as defined herein) provides the LDC with the ability to enable Customers (as defined herein) to authorize the disclosure of Customer Data (as defined herein) to third-party service providers, such as the Applicant, for the purpose of review, analysis and management of energy usage;
- D. The Applicant wishes to access Connect My Data and shall accept these terms and conditions of access and use as part of the on-boarding process.

ACCEPTANCE AND AGREEMENT

In consideration of being granted access to Connect My Data, the Applicant hereby accepts and agrees to be bound by the following terms and conditions (the **Terms**), and further acknowledges that the LDC is relying upon the Applicants representations, warranties, covenants, agreements and acknowledgments contained herein:

1. **Definitions.** Unless otherwise defined herein, the following terms shall have these defined meanings for purposes of these Terms:

Applicable Laws means all federal, provincial, municipal, local and other laws, standards, codes, regulations, ordinances or guidelines.

Applicant or **you** has the meaning set forth in the recitals.

Authorization End Date means, as selected by Customer, the date when on-going (future) data access is discontinued.

Claim has the meaning ascribed thereto in Section 3 below.

Connect My Data means the LDCs Connect My Data platform.

Connect My Data Platform Terms has the meaning ascribed thereto in Section 1 above.

Customer means a customer that receives electric services from LDC.

Customer Data means energy data, as defined in O. Reg 633/21;

Days means calendar days, unless otherwise expressly stipulated.

LDC has the meaning set forth in the recitals.

Representatives means your organizations directors, officers, employees, management, agents, consultants, contractors, subcontractors, advisors or other representatives who have a direct need to access Customer Data in the course of your business activities.

Service means the Applicants hosted service, mobile app or software application.

Terms has the meaning set forth in the preamble above.

- 2. Applicant Obligations.** In consideration of being granted and continuing to receive access to Connect My Data, you covenant, agree, represent and warrant as follows:

General

- (a) The Applicant has full right, power, and authority to enter into and perform these Terms and its performance under these Terms will not conflict with any other obligation the Applicant may have to any other party.
- (b) The Applicant shall have completed the LDCs registration and on-boarding process.
- (c) Any and all information delivered by Applicant to LDC or Customer, including without limitation in relation to its Registration, is and will remain complete, accurate, and valid information, and will be neither misleading nor contain any material omissions.
- (d) Applicant shall not hold itself out as a representative, affiliate, related party or agent of the LDC and shall not purport to offer any representations, warranties, covenants, guarantees or other agreements on behalf of the LDC.
- (e) Nothing herein shall be construed to grant Applicant any other right of access to any of LDCs data, systems, networks, databases, computers, telecommunications or other information systems owned, controlled or operated by the LDC or on its behalf.
- (f) Without limiting any other rights of LDC, LDC may suspend Applicants access to Connect My Data at any time without notice where ordered by the OEB or where the LDC suspects, based on reasonable evidence and not mere speculation, that Applicant may be in material breach of any obligation hereunder and such material breach poses a risk of harm to Customers or poses an imminent threat of damage to physical security, cyber-security or safe and reliable operation of the LDC. In the event of any such suspension, LDC shall promptly notify the Applicant of the suspension, provide reasons for the suspension, and cooperate with the Applicant to investigate and resolve the issues that led to the suspension, and reinstate Applicants access to Connect My Data. The LDCs obligations herein are conditional upon the Applicant cooperating with the LDC in relation to the foregoing.

Customer Data

- (g) Applicant shall comply with all Applicable Laws in relation to its use of Connect My Data and its collection, use or disclosure of Customer Data.

(h) Applicant shall comply with the LDC policies and protocols described in Appendix A, as may be amended from time to time, in relation to its use of Connect My Data and its collection, use or disclosure of Customer Data.

(i) Applicant shall use and disclose Customer Data only for the limited purpose(s) expressly identified to, and as consented to by, the Customer.

(j) The Applicant has established, implemented and maintains appropriate privacy, security and other measures, controls and technologies to comply with the obligations described herein and to protect Customer Data against unauthorized or unlawful processing and against accidental use, loss, destruction, damage, alteration or disclosure, which measures shall be regularly updated in accordance with industry standard practices.

(k) Applicant will immediately notify LDC upon discovery of any actual or suspected breach, unauthorized or unlawful, or compromise of the privacy, security, confidentiality or integrity of Connect My Data. Such notice will include:

(i) a summary of the issue, facts and status of the Applicants investigation of the incident;

(ii) the potential number and identification of Customers affected by the incident; and

(iii) any other information pertinent to LDCs understanding of the incident.

(l) The Applicant shall conspicuously post on its website its privacy policy in a manner reasonably accessible to Customers.

3. Indemnification. Applicant will defend, indemnify and hold LDC, its affiliates and their respective officers, directors, employees, sublicensees, consultants, Customers, Representatives and agents harmless from and against any and all claims, losses, liabilities, damages, deficiencies, actions, judgments, settlements, interest, awards, penalties, fines, expenses and costs, including attorneys fees and court costs (Claim(s)), arising out of or related to:

(a) any actual or alleged breach of any representation, warranty, covenant or other provision of any term contained herein by the Applicant or its Representatives;

(b) any actual or alleged infringement of any intellectual property rights by the Service, or Customers use of the Service; or

(c) any unauthorized use, disclosure, dissemination or destruction of Customer Data.

LDC shall give prompt written notice of a Claim and LDC will have the right (but no obligation) to participate in the defense of such Claim. In no event will the Applicant settle any Claim without LDCs prior written consent.

4. Warranty Disclaimer. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE CONNECT MY DATA PLATFORM IS AT YOUR SOLE RISK AND, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE CONNECT MY DATA PLATFORM, AND CUSTOMER DATA SHARED THROUGH SAID PLATFORM, IS PROVIDED AS IS AND AS AVAILABLE, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, INCLUDING WITHOUT LIMITATION IN RESPECT OF ACCURACY OF CUSTOMER DATA, AND LDC HEREBY

DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE CONNECT MY DATA PLATFORM, EITHER EXPRESS OR IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF: MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AND NONINFRINGEMENT OF THIRD-PARTY RIGHTS. LDC FURTHER DISCLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY WARRANTIES AGAINST INTERFERENCE WITH YOUR QUIET ENJOYMENT OF THE CONNECT MY DATA PLATFORM, THAT THE FUNCTIONS CONTAINED IN OR SERVICES PERFORMED OR PROVIDED BY THE CONNECT MY DATA PLATFORM WILL MEET YOUR REQUIREMENTS, AND THAT THE OPERATION OF THE CONNECT MY DATA PLATFORM WILL BE UNINTERRUPTED, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OF YOUR OR ANY THIRD PARTYS SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR- FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY LDC, ITS REPRESENTATIVES, OR LICENSORS SHALL CREATE ANY SORT OF WARRANTY.

- 5. Limitation of Liability** EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL LDC BE LIABLE FOR PERSONAL INJURY, PROPERTY DAMAGE, OR ANY INCIDENTAL, SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS AND/OR OF DATA, LOSS OF USE, OR LOSS OF BUSINESS OPPORTUNITY, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE CONNECT MY DATA PLATFORM OR ANY SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, WARRANTY OR OTHERWISE) AND EVEN IF LDC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

WITHOUT LIMITING THE FOREGOING, THE LDC SHALL NOT BE LIABLE FOR ANY ACTION OR INACTION UNDERTAKEN IN A MANNER INCONSISTENT WITH THIS AGREEMENT WHERE SUCH ACTION OR INACTION WAS REQUIRED BY APPLICABLE LAW.

6. Termination of Access

(a) These Terms are effective on the date upon which you accept them and remains in force and applies for the duration of your use of Connect My Data or until termination of your right to do so.

(b) LDC may with notice terminate your right of access to Connect My Data immediately upon your material breach of any provision contained in these Terms or in accordance with any OEB order. If reasonably curable, you shall be afforded the opportunity to cure such material breach within 15 days of receiving notice of said breach.

7. Customer Data Retention & Destruction

(a) Where required by Applicable Law, the Applicant shall destroy or delete Customer Data.

8. General.

(a) Any provision in these Terms which, by its nature, would reasonably be expected to survive termination, shall survive termination of these Terms and the Applicants right of access to Connect My Data.

(b) You acknowledge that nothing in these Terms shall be construed as creating a partnership, joint venture or agency relationship between you and LDC. You shall not advertise, promote, or suggest in any manner that the Services you provide to Customers in connection with Connect My Data are provided by, sponsored by, or associated in any way with LDC, or that you are employed by, affiliated with, or sponsored by LDC, except to state that you have successfully completed all requirements for your use of Connect My Data. During the term of these Terms, you shall insert the following language in each contract pursuant to which you will provide the Service to Customers: LDC is not a party to these Terms, and shall have no liability whatsoever with respect to any of the services that are the subject of this contract. The services provided under this contract are not provided, licensed, warranted or sponsored by LDC.

(c) The laws of the Province of Ontario and the federal laws of Canada applicable therein govern the Terms and your use of Connect My Data. Any litigation related to the Terms or your use of Connect My Data must be brought and enforced in, and will be under the exclusive jurisdiction of, the courts of the Province of Ontario or the federal courts of Canada. LDC reserves the right to seek any and all remedies available at law or in equity for your violation of the Connect My Data Platform Terms.

(d) You may not assign your rights or obligations under the Terms. Any unauthorized assignment will be void.

(e) A waiver of any breach or default under the Terms shall not constitute a waiver of any subsequent breach or default.

(f) If a court of competent jurisdiction holds that any provision of these Connect My Data Platform Terms are invalid or unenforceable, the remaining portions will remain in full force and effect, and the parties will replace the invalid or unenforceable provision with a valid and enforceable provision that achieves the original intent of the parties and the economic effect of the Connect My Data Platform Terms.

(g) These Connect My Data Platform Terms constitute the entire agreement between LDC and you with regard to your use of Connect My Data and supersede all prior negotiations, agreements, and understandings with respect to the subject matter, and no addition to or deletion from or modification of any of the provisions hereto shall be binding upon LDC unless made in writing and signed by an authorized representative of LDC.

(h) Any term or condition on any other document submitted by you shall be of no force or effect whatsoever, and is specifically rejected.

(i) LDC reserves the right to modify the Terms at any time where required by Applicable Law and with notice to you. You acknowledge and agree that such modified terms become effective upon delivery of notice.

APPENDIX A

LDC Policies

This Appendix A, and any policy set forth herein, may be updated, amended or modified from time to time by the LDC at its sole discretion.

Privacy Policy Regarding Privacy of Energy Data (required by Ontario Regulation 633/21 s. 3(4))