

Green Button Connect My Data Platform Agreement (for Registering 3rd Parties)

Please read all the terms and conditions of this Agreement with E.L.K. Energy Inc. (“ELK Energy”) carefully. By clicking “I agree”, by using ELK Energy’s Green Button Connect My Data Platform service, by signing a copy of this Agreement, or by signing an order or other document referring to this Agreement, you (the “Data Recipient”) agree to be bound by the terms and conditions of this Agreement, even if you have not read them. It is important to read this entire Agreement. In particular it contains provisions that may limit your rights, such as the section entitled Limitations.

1. Privacy. The Data Recipient will treat ELK Energy customer (“Customer”) data in accordance with the Data Recipient’s privacy policy and applicable Ontario privacy laws. The Data Recipient will keep the data secure, use it only to perform its services to the Customer, and not share it unless authorized by the Customer. The Data Recipient may use and share aggregate or statistical information provided that it does not identify the customers or ELK Energy and the release of that information would not directly or indirectly permit the discovery of the origin of such information.

Customer Data may include: name, address and telephone number; device IDs; e-mail addresses; billing information; electric energy usage, electric service (including, without limitation, service account number, service agreement, service start date, electricity demand, monthly billed revenue, billing dates, billing history, credit history, rate schedule(s), meter read dates, interval usage or interval time-of-use indicators, or number or type of meters at a location.

2. Conditions of Participation. Upon ELK Energy’s acceptance of your request to connect, you will be requested to complete Connectivity Testing within 90 days. Once Connectivity Testing is successfully completed, you will be eligible for Customers to authorize release of their data to you via the Green Button Connect My Data Platform according to the parameters they specify and for so long as the Customer agrees.

To successfully complete Connectivity Testing, the Data Recipient must do the following. ELK Energy may terminate providing Customer Data if at any time the following ceases to be true. Data Recipient:

- (a) will not make any representations, warranties, or guarantees to Customers on behalf of ELK Energy;
- (b) will comply with all applicable laws and regulations;
- (c) will post its privacy and cyber-security policy and controls in a manner reasonably accessible to Customers;

(d) will exchange with ELK Energy and maintain unexpired, unrevoked RSA certificates with a public key length of at least 2048 bits issued by a ELK Energy supported Certificate Authority;

(e) will implement Transport Layer Security for all exchanges with ELK Energy; and

(f) will incorporate industry standard controls that prevent a 'Denial of Service' type of attack;

3. Notification of Security Incidents. Data Recipient will immediately notify ELK Energy upon discovery of any actual or suspected breach or compromise of the privacy, security, confidentiality, or integrity of Customer Data, the Data Recipient's systems relevant to Customer Data, or the Green Button Connect My Data Platform (an "Incident").

Such notice will include:

(a) a brief summary of the issue, facts and status of the Data Recipient's investigation of the Incident;

(b) the potential number of Customers affected by the Incident; and

(c) any other information pertinent to ELK Energy's understanding of the Incident.

4. Indemnification. The Data Recipient will release, defend, indemnify and hold harmless ELK Energy, its affiliates and all of their respective officers, directors, employees, sublicensees, consultants, contractors, Customers and agents harmless from and against any and all claims, demands, complaints, actions, causes of action, applications, proceedings, penalties, damages, losses, judgments, settlements, liabilities, costs or expenses, including without limitation legal fees, whatsoever, directly or indirectly arising out of or related to:

(a) ELK Energy's disclosure of Customer Data to the Data Recipient;

(b) any actual or alleged breach of any provision of this Agreement by Data Recipient;

(c) any actual or alleged infringement of any intellectual property rights by the Data Recipient's services; and

(d) any unauthorized use, disclosure, dissemination or destruction of Customer Data or ELK Energy data, systems, storage or property.

5. Limitations. Data Recipient's use of the Green Button Connect My Data platform is at Data Recipient's sole risk and, is provided "as is" and "as available", subject to whatever defects, conditions, impediments or deficiencies which may exist. All promises made by ELK Energy are contained in this Agreement. ELK Energy makes no representation, warranty, endorsement or recommendation of any kind, and no promises implied by law (whether

described as warranties, conditions, representations, or otherwise, and whether relating to merchantability, fitness, non-infringement, or otherwise) apply. Data Recipient cannot collect any damages of any kind (whether direct, indirect, special, consequential, punitive, or otherwise) from ELK Energy for any reason or for any matter related to this Agreement (whether under legal theories of contract, tort, negligence, strict liability, operation of law, or otherwise). ELK Energy relies on these limitations when entering this Agreement. They are a fundamental and essential part of our arrangement, and apply even if this Agreement has failed in its fundamental or essential purpose or been fundamentally breached.

6. Term and Termination. Data Recipient may terminate this Agreement at any time for any reason. ELK Energy may terminate this Agreement immediately if for any reason it ceases to provide the Green Button Connect My Data Platform. ELK Energy may also terminate or suspend this Agreement immediately if Data Recipient:

- (a) fails to comply with any of the terms of this Agreement;
- (b) infringes any intellectual property right of ELK Energy or a third party, or engages in any other activities prohibited by law;
- (c) fails to successfully complete the Connectivity Testing within 90 days;
- (d) access to the Green Button Connect My Data Platform represents an imminent threat of damage to physical security, cyber-security or safe and reliable operation of ELK Energy's facilities or systems; or
- (e) breaches any agreement it has with Customers.

While ELK Energy is entitled to terminate or suspend this Agreement without notice if any of the above occurs, ELK Energy may, if practicable and at its sole discretion, provide notice and give the Data Recipient time to cure any such breach or deficiency.

If any of the above occurs, ELK Energy will provide notice and if practicable, a reasonable time to cure.

7. Prior Agreement: This Agreement contains the complete and exclusive statement of the agreement between the parties and supersedes all prior and contemporaneous agreements, purchase orders, understandings, proposals, negotiations, representations or warranties of any kind whether written or oral. No oral or written representation that is not expressly contained in this Agreement is binding on either party. This Agreement cannot be amended or modified, other than by a change made in writing, dated and executed by the parties.

8. Independent Contractors: The parties are independent contractors, each in full control of its own business. This Agreement does not establish a joint venture, or partnership, relationship between the parties. Neither party will under any circumstances hold itself out to be a partner, employee, franchisee, legal representative, of the other.

9. Governing Law: This Agreement shall be interpreted in accordance with and governed by the laws of the Province of Ontario, Canada, excluding conflicts of laws provisions and excluding the United Nations Convention on Contracts for the International Sale of Goods. The parties hereby submit to the non-exclusive jurisdiction of the courts of Ontario, and the Federal Court of Canada. Any actions against ELK Energy must be commenced in the courts of Ontario or the Federal Court of Canada.

10. Assignment: ELK Energy shall have the right to assign this Agreement or any rights hereunder without the consent of Data Recipient in the event of a merger, sale of assets or business, or other transfer of control by operation of law or otherwise, provided that the assignee shall assume all obligations and rights hereunder. Data Recipient may not assign its rights or obligations hereunder without the prior written approval of ELK Energy, which may be arbitrarily withheld.

11. Notice: All notices to be provided in accordance with this Agreement shall be in writing and shall be duly provided for if the notice is remitted to its addressee by courier, mail, or facsimile, to the address provided by the party, in the manner provided for in this section. Every notice delivered in the manner provided for herein shall be deemed to have been received: when delivered or by facsimile the first business day after the date received; or the 5th business day following the date of mailing, if sent by mail.

12. Severability: If any provision of this Agreement is found to violate any statute, regulation, code, rule, order or decree of any governmental authority, court, tribunal or agency, such invalidity shall not be deemed to affect any other provision hereof or the validity of the remainder of this Agreement, and any such invalid provision shall be deemed to be severed herefrom to the minimum extent necessary to cure such violation.