

EnergySource
Terms and Conditions of Use

Energy Laboratories, Inc. (“ELI”) makes data and reports that ELI gathers and prepares for its clients available online through EnergySource. Use of EnergySource is subject to the following terms and conditions, which you agree to follow by checking the “I accept the Terms and Conditions” checkbox.

(1) Roles and Responsibilities.

- (A) **ELI.** ELI will (i) upload client information to EnergySource, and (ii) provide general assistance to the Client Administrator regarding the information on EnergySource and access to that information.
- (B) **Client.** The client will (i) designate one (1) or more “Client Administrators” (defined below) and provide ELI with the contact information for each Client Administrator, and (ii) notify ELI of any change to that information.
- (C) **Client Administrator.** The Client Administrator is the person(s) responsible to (i) grant, deny, or revoke access to the client’s information on EnergySource, and (ii) monitor the users of EnergySource.
- (D) **Website Host.** A third party designated by ELI may serve as the website host for EnergySource. The website host may impose its own terms and conditions of use. All users of EnergySource must comply with those terms and conditions, which will be provided upon request.

(2) Use of EnergySource.

(A) **Security & Confidentiality.**

- (1) **Of the Site.** Through its ability to grant, deny, or revoke access to EnergySource, the Client Administrator has the most critical role in securing EnergySource. If Client Administrators limit access to EnergySource to persons, or groups of persons, who will both (i) use EnergySource consistent with the client’s wishes and these terms and conditions, and (ii) protect their user name and password information, then the opportunity to breach the security of EnergySource should be limited. As an additional security feature, EnergySource allows ELI to track certain information relating to the security of the site, including (i) user login and registration activities, (ii) user profile changes, (iii) user client requests, and (iv) modifications (inserts, edits and deletes) to the security configuration selected by the Client Administrator. While ELI’s ability to track such information may prove helpful to the client and Client Administrator in maintaining the security of the client’s information on EnergySource, this ability does not impose, and ELI does

not assume, any duty to monitor usage of EnergySource, or to notify the client or the Client Administrator of any unusual or suspicious activity.

- (2) **Of the Information on EnergySource.** The client and the Client Administrator are solely responsible to maintain the confidentiality of the client's information on EnergySource. For example, the client is responsible to prevent the persons to whom it has granted access to EnergySource (each, an "Authorized User") from disclosing user names, passwords, or any other confidential information relating to EnergySource to unauthorized persons.
- (B) **Registering New Users; Confidentiality of User Names, Passwords and Client Information.** Prospective users of EnergySource must first complete a registration form available on EnergySource, which ELI forwards to the Client Administrator for approval. If the request is approved, then the requesting party shall have access to EnergySource subject to whatever parameters the Client Administrator imposes. By completing the registration form, all prospective users of EnergySource consent to electronic communication from ELI. All e-mail addresses disclosed in connection with EnergySource will be kept confidential, and will not be sold or otherwise disclosed to third parties. Client Administrators and Authorized Users are solely responsible to maintain the confidentiality of user names, passwords, and information accessed through EnergySource.
- (C) **Authorized Use.** Users of EnergySource represent and warrant to ELI each time that they access EnergySource that they are authorized to do so and that they may view and use the information on EnergySource. If an Authorized User views information that relates to a client other than the client that approved of the Authorized User's access to EnergySource, then the Authorized User shall (i) not copy any information relating to such other client, and (ii) notify ELI immediately.
- (D) **Modifying Levels of Permission; Revocation of Access.**
- (1) **Client Administrator.** The Client Administrator has the primary responsibility to increase, restrict, suspend, or revoke the access of any Authorized User, which actions may occur at any time.
- (2) **ELI.** Upon written request from either the Client Administrator or an authorized representative of the client, ELI will increase, restrict, or revoke access to EnergySource as to a particular Authorized User in accordance with the directions set forth in the written request, which modification shall occur no later than 5:00 p.m. Mountain time of the first business day following the written request for the modification. ELI may also increase, restrict, suspend, or revoke access at any time for any Authorized User who does not honor these terms and conditions or for any other reasonable purpose. ELI's right to modify or revoke access shall not be construed to (i) impose any duty or responsibility on ELI to do so, or (ii) absolve the client and/or the Client Administrator from their respective duties to modify or revoke access to EnergySource as and

when they deem such actions are necessary, such as the termination of employment of an Authorized User. ELI shall notify the Client Administrator of any ELI initiated modifications, suspensions, or revocations of access as and when they occur.

(3) **Client Information on EnergySource.**

- (A) **Certification of Accuracy.** ELI certifies the accuracy of the information contained in signed reports only. All other data available on EnergySource is subject to change, and may not be characterized as anything other than incomplete. If the data in the signed report conflicts with other data on EnergySource, then the data in the signed report controls.
- (B) **Intended Recipient.** The information available on EnergySource is intended, gathered, and prepared for the benefit of the client only. The information may not be reproduced or relied upon, in whole or in part, by any party other than the client.
- (C) **Post Report Obligations.** ELI does not accept or assume any responsibility, express or implied, to update or supplement the signed report after it has been issued, or any other information available on EnergySource.
- (D) **Retention.** Client information will be available on EnergySource for a period of time as ELI determines, after which time ELI will remove the information from EnergySource.

(4) **Modification of Service.** ELI reserves the unilateral right to modify these terms and conditions as and when such modifications are necessary. ELI will provide reasonable advance notice of any such modifications to the client and the Client Administrator.

(5) **Warranties.** ELI does not make any express or implied warranties, representations, statements, or guarantees regarding EnergySource, the information on EnergySource, your use of EnergySource, or your use of the information on EnergySource.

(6) **Disclaimer of Liability.** ELI, on behalf of itself and its directors, officers, shareholders, employees, and agents, disclaims all liability for any loss, liability, damage (whether direct, indirect or consequential), personal injury or expense of any nature whatsoever that you, the client, the Client Administrator, any user of EnergySource (including unauthorized users), or any third party may suffer as a result of:

- (A) Access (including unauthorized access), reliance, disclosure and/or use of EnergySource and/or the information provided on EnergySource.
- (B) Delays, inaccuracies, errors in, or omission of any information on EnergySource (except information in a signed report) or the delivery of such information.
- (C) Interruption or termination of EnergySource.

- (7) **Notice.** Notices required to be given pursuant to this document may be given either verbally, or in writing by regular mail, electronic mail, or facsimile. All notices shall be deemed given on the date when the notice was communicated or sent.
- (8) **Severability.** If any portion of these terms and conditions is held to be void or unenforceable, then the remaining terms and conditions shall nevertheless be effective and enforceable.
- (9) **Governing Law.** This document, and all questions arising under this document, shall be construed in accordance with, and be governed by, the laws of the State of Montana.
- (10) **Entire Agreement.** This document embodies the entire agreement between ELI and the client, and supersedes all prior negotiations, understandings, and agreements, if any, relating to EnergySource.
- (11) **Successors and Assigns.** The terms and conditions in this document are binding upon, and shall inure to the benefit of, ELI, the client, and their respective successors and assigns.