

## **TERMS AND CONDITIONS**

These Terms and Conditions (“**Terms**”) are a binding agreement between you and Welligence Energy Analytics (“**Welligence**,” “**we**,” “**us**,” or “**our**”), and govern your use of the Welligence website <https://welligenceenergy.com/> (the “**Site**”) and our platform (collectively with the Site, the “**Services**”). By accessing the Services you are accepting the Terms. If you do not agree with the Terms, please discontinue your use of any Services. Your continued use of the Services signifies your acceptance of the Terms.

### **1. USING THE WEBSITE**

You are not allowed to use the Services if you are under the age of 18. You affirm that you are at least 18 years old (or the age of majority where you live), and are competent and authorized to agree to and abide by these Terms. If you are not 18 years of age or older, please stop using the Services.

If you are entering into these Terms on behalf of an entity, you represent that you are authorised to bind such entity in legally binding obligations.

### **2. PRIVACY POLICY**

We will treat any personally identifiable information you provide to us in connection with the Services in accordance with our Privacy Policy, which constitutes an integral part of these Terms. By using the Services, you agree that we can collect, use, and share your personally identifiable information consistent with our Privacy Policy.

### **3. YOUR ACCESS AND USE OF THE SERVICES**

You are authorized to use the Services in accordance with these Terms. You may download content from the Services for your own use and may share it with other individuals in your organization. You agree that you will not duplicate, publish, modify, reverse engineer, create derivative works from, participate in the transfer of, post on the World Wide Web, or in any way distribute or exploit the Services, any portion of the Services, or any content from the Services, unless laws prohibit these restrictions, it is otherwise permitted in these Terms, or you have our specific written permission to do so. Additionally, you agree that you will not remove or alter any author, trademark, or other proprietary notice or legend displayed on the Service (or printed pages produced from the Services).

No rights or licenses in the Services are granted or conveyed, except access rights as expressly set forth in this [Section 3](#), whether expressly, by implication, estoppel, reliance or otherwise, all of which are specifically excluded and disclaimed. Any materials downloaded and all intellectual property pertaining to or contained on the Services (including but not limited to copyrights, patents, database rights, graphics, designs, text, logos, trade dress, trademarks, and service marks) are owned by us or third parties that have granted us the rights to use them. All rights, title, and interest in these remain the property of Welligence, and/or such third-party owner, as applicable. All content is protected by trade dress, copyright, patent, and trademark laws, various other intellectual property and unfair competition laws, as well as the terms of the applicable license governing such content.

### **4. ACCESSING THE SERVICES**

To access the Services you will need to create a user account, as set forth in [Section 5](#) below (the “**Account**”), and pay the fees associated with the Services. After you create your Account and pay the applicable fees, you will be entitled to access and use the Services.

## 5. YOUR ACCOUNT

When creating an Account, you will provide to us true, accurate, current, and complete information. You will update the information about yourself and/or your organization promptly, and as necessary, to keep it current and accurate. You are responsible for any activity that occurs in your Account. Please keep it secure, protect it with a strong password, and do not share the password with anyone. If you think that someone has gained access to your Account, please contact us immediately at: [info@welligenceenergy.com](mailto:info@welligenceenergy.com).

We reserve the right, exercisable in our sole discretion, to disallow, cancel, remove, or reassign certain usernames, and may, with or without prior notice, suspend or terminate your account if activities occur on your account that we determine would or might: constitute a violation of these Terms, cause damage to or impair the Services, infringe or violate any third party rights, or violate any applicable laws or regulations. If messages sent to the e-mail address you provide are returned as undeliverable, we may terminate your Account immediately without notice to you, and without any liability to you or any third party.

## 6. RESTRICTIONS ON USE OF THE SERVICES

In addition to the limitations in [Section 3](#) above, you may not access or use the Services in a manner that:

- is unlawful, fraudulent, deceptive, or prohibited in these Terms;
- uses technology or other means, including “robots,” “spiders,” “crawlers,” “scrapers,” “offline readers,” or other automated means to access our content, systems, or user Accounts, without authorization;
- attempts to damage, disable, overburden, or impair our servers or networks;
- attempts to introduce viruses, or any other computer code, files, or programs that interrupt, destroy, or limit the functionality of the Services, or any computer software, hardware, or telecommunications equipment;
- attempts to access areas or features of the Services that you are not authorized to access;
- probes, scans, or tests the vulnerability of the Services, or any system or network; or
- violates, or encourages others to violate, these Terms or the referenced Privacy Policy, or any other applicable third-party terms.

In addition, you will not:

- Create more than one Account for yourself or your entity, or create another Account if we have already disabled your Account, unless you have our written permission to do so;
- Use another user’s Account, username, or password without their permission;
- Create a false identity or impersonate another person or entity in any way or provide any false information to us;
- Buy, sell, rent, or lease access to your Account without our written permission;
- Use or develop any third-party application to access the Services;
- Make unauthorized copies of any content made available on or through the Services, or violate the license terms associated with any content;

- Alter, deface, mutilate, or otherwise bypass any approved software through which the Services are made available; or
- Use the Services, without our express written consent, for any unauthorized purpose, including communicating or facilitating any commercial advertisement or solicitation or spamming.

We will determine, in our discretion, whether there has been a breach of our acceptable use standards through your use of the Services, and we may take such action as we deem appropriate to prevent, end, or mitigate the impact of any breach we identify.

Failure to comply with these acceptable use standards constitutes a material breach of these Terms under which you are permitted to use the Services, and may result in our taking all or any of the following actions:

- Immediate, temporary, or permanent withdrawal of your right to use the Services.
- Legal proceedings against you for reimbursement of all costs and damages (including, but not limited to, reasonable administrative and legal costs) resulting from the breach.

The responses described above are not limited, and we may take any other action we reasonably deem appropriate. We exclude and disclaim liability for actions taken in response to breaches of these acceptable use standards.

## **7. SECURITY**

Welligence makes no warranty whatsoever to you, express or implied, regarding the security of the Services, including with respect to the ability of unauthorized persons to intercept or access information transmitted by you through the Services. You acknowledge and agree that you are solely responsible for maintaining the security of your devices. Welligence is not responsible for any losses resulting from the loss or theft of your device, or the loss or theft of your information transmitted from or stored on your devices.

## **8. CONSENT TO ELECTRONIC COMMUNICATIONS**

By using the Services, you consent to receiving certain electronic communications from us as further described in the Privacy Policy. Please read the Privacy Policy to learn more about your choices regarding our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing.

## **9. MODIFICATION; TERMINATION**

Following an initial term of 12 months, you may terminate these Terms at any time upon 1 month advance written notice. If you wish to terminate these Terms before the initial 12 month term expires, you may contact us at [info@welligenceenergy.com](mailto:info@welligenceenergy.com). Such termination will be subject to the payment of in full for the initial 12 month term.

Upon termination, your right to use the Services immediately ceases. Notwithstanding such termination, you may continue to use any content that you downloaded.

We may deactivate your Account due to prolonged inactivity, and we may reclaim your username at any time if Welligence reasonably believes you are or might be in violation of these Terms including your obligation to pay for the Services as set forth herein.

After the Terms have been terminated, both you and Welligence continue to be bound by Sections 2-3 and 8-16 of the Terms.

Following termination of the Terms we will handle your information in accordance with the terms of the Privacy Policy.

#### **10. THE SERVICES ARE PROVIDED “AS IS”**

**YOU UNDERSTAND AND AGREE THAT THE INFORMATION AND MATERIALS ON THE SERVICES ARE PROVIDED TO YOU ON AN “AS IS” AND “AS AVAILABLE” BASIS. WELLIGENCE DOES NOT WARRANT THE ACCURACY, ADEQUACY, OR COMPLETENESS OF THIS INFORMATION OR MATERIAL, AND EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THEM. WE MAKE NO WARRANTIES OR REPRESENTATIONS THAT: (I) INFORMATION IN THE SERVICES IS ACCURATE OR COMPLETE; (II) THE FUNCTIONS OR CONTENT AVAILABLE THROUGH THE SERVICES WILL BE ACCESSIBLE, COMPLETE, TIMELY, UNINTERRUPTED, OR ERROR-FREE; (III) THAT ANY MESSAGES YOU SEND THROUGH THE SERVICES WILL BE DELIVERED; OR (IV) YOUR ACCESS OR USE OF THE SERVICES WILL NOT RESULT IN ANY HARM TO YOUR COMPUTER SYSTEM, LOSS OF DATA, OR OTHER HARM.**

**WITHOUT LIMITING THE FOREGOING TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT AND WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.**

#### **11. LIMITATION OF LIABILITY**

The provisions of this [Section 11](#) apply up to the maximum extent permitted under applicable law. Some jurisdictions do not allow the limitation of liability in contracts, and as a result the contents of this Section may not apply to you. Nothing in this Section is intended to limit any rights you may have that may not be lawfully limited.

**IN NO EVENT WILL WELLIGENCE, OR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, REPRESENTATIVES, OR LICENSORS BE LIABLE FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL EXPENSES OR DAMAGES; LOSSES OF PROFITS, SALES, BUSINESS OR REVENUE; BUSINESS INTERRUPTION; LOSS OF ANTICIPATED SERVICES; LOSS OF BUSINESS OPPORTUNITY, DATA, USE, GOODWILL OR REPUTATION, WHETHER INCURRED DIRECTLY OR INDIRECTLY, ARISING IN CONNECTION WITH (A) YOUR ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SERVICES; OR (B) UNAUTHORIZED ACCESS, USE, OR ALTERATION OF YOUR CONTENT, EVEN IF WELLIGENCE OR OUR REPRESENTATIVES ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, OR EXPENSES.**

**IN NO EVENT WILL WELLIGENCE’S AGGREGATE LIABILITY FOR ALL CLAIMS RELATING TO THE SERVICES EXCEED THE GREATER OF (A) \$100 USD, OR (B) THE AMOUNT YOU PAID WELLIGENCE, PLUS THE AMOUNT WELLIGENCE WITHHELD BASED ON YOUR USE OF THE SERVICES, IF ANY, IN THE LAST 12 MONTHS.**

#### **12. INDEMNIFICATION**

You agree, to the extent permitted by law, to indemnify, defend, and hold harmless Welligence, its affiliates, officers, directors, employees, agents, partners, representatives, and licensors (the “**Indemnified Parties**” and each an “**Indemnified Party**”) from and against all losses, expenses, damages, and costs, including reasonable attorneys’ fees, due to, arising out of, or relating in any way to (i) any violation of these Terms (including negligent or wrongful conduct) by you or (ii) your access to or use of

the Services. You agree to fully cooperate at your expense as reasonably required by an Indemnified Party. Each Indemnified Party may, at its election, assume the defense and control of any matter for which it is indemnified hereunder. You shall not settle any matter involving an Indemnified Party without the consent of the applicable Indemnified Party.

### **13. APPLICABLE LAWS**

Your use of the Services shall be governed in all respects by the laws of the State of Delaware, without regard to choice of law provisions. You agree that jurisdiction over and venue in any legal proceeding directly or indirectly arising out of or relating to the Services shall be exclusively in the competent courts located in the State of Delaware. Any cause of action or claim you may have with respect to the Services must be commenced within one (1) year after the claim or cause of action arises. Our failure to insist upon or enforce strict performance of any provision of these Terms shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties, nor trade practice, shall act to modify any of these Terms. We may assign our rights and duties under these Terms to any party at any time without notice to you.

### **14. NO CLASS ACTIONS; JURY WAIVER**

You may only resolve disputes with Welligence on an individual basis, and may not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action. Class arbitrations, class actions, private attorney general actions, and consolidation with other arbitrations are not allowed. YOU AND WELLIGENCE ENERGY ANALYTICS WAIVE ALL RIGHTS TO A JURY TRIAL, and elect instead to have the dispute be resolved by a judge.

### **15. GENERAL**

If any provision of these Terms is held to be invalid, illegal, or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality, or unenforceability will not affect the effectiveness or validity of any provision in any other jurisdiction, and these Terms will be reformed, construed, and enforced in such jurisdiction as if such provision had never been contained herein. These Terms and our Privacy Policy constitute the entire agreement between you and us with respect to the Services, and they supersede all prior or contemporaneous communications and proposals, whether electronic, oral or written, between you and us with respect to the Services, other than with respect to any signed agreement between you and Welligence that expressly modifies these Terms. We may provide notice to you under these Terms, in our discretion, through the Services and/or by sending e-mails to the e-mail address you provided to us.

### **16. AMENDING THESE TERMS**

We may amend these Terms from time to time. The most current version will always be available on the Site. If we believe an amendment is material, we will notify you by a notification through the Services and/or by e-mailing the e-mail address you provided to us, if you have provided one. By continuing to access or use the Services after an amendment becomes effective, you agree to be bound by the amended terms.

### **17. CONTACT US**

If you have any questions about these Terms or the Services, please contact us at: [info@welligenceenergy.com](mailto:info@welligenceenergy.com)

The Terms were last modified on January 18, 2018.