

Urjanet Terms of Service

These Terms of Service were last revised on April 15th, 2020.

The Urjanet Utility Data Platform connects to a global network of utility providers to deliver utility data directly to its customers using this website. By using the Urjanet services you agree that you have authority to agree to these terms on behalf of your company, identified in an Order Form, which will be bound by these Terms of Service and Privacy Policy, are published via a link on <https://www.urjanet.com> (the "Website"), and which are incorporated herein by reference. If you do not agree to any of these terms, then please do not use the Website or the Services.

1. Description of Services.

1.1 Orders. Urjanet will provide Client with Services as detailed in an Order Form ("Urjanet Services", or "Services") executed by both parties that will become a part of this Agreement.

1.2 Functionality. Urjanet Services means the collection and processing of utility data from entities such as electric, gas, telephone, cable, and similar utilities ("Provider") and other data on the behalf of the Client or other third-party customers of Client ("End User"), and its delivery as a data feed, as hereafter defined, to the Client.

1.3 Data Feed. "Data Feed(s)" means utility and other data obtained by Urjanet from various Providers and delivered to Client in a specified format and frequency.

1.4 Updates. From time to time, Urjanet may update, enhance or modify functionality provided to the Client through Urjanet Services, to include new features, improve functionality, and address defects or customer feedback; provided, however, that such updates, enhancements and modifications shall not remove any critical functionality from, or degrade the performance of, the Urjanet Services.

1.5 Data Security. Urjanet shall establish and maintain reasonable safeguards against the destruction, loss, alteration of or unauthorized access to data stored on Urjanet's systems. Urjanet is a global company and may access or store personal information in multiple countries, including countries outside of Client's country to the extent permitted by applicable law.

2. Ownership/Reservation of Rights.

2.1 Client. Urjanet acknowledges and agrees that access credentials and account information provided by an End User or Client, or any data produced through the Services that is uniquely identifiable to End User or Client (collectively, "Client Content"), shall remain the sole and exclusive property of Client and that, as between Urjanet and the Client, Client reserves all rights in and to the Client Content. Client hereby grants Urjanet a limited, non-transferable, non-assignable license during the Term to (a) access, copy, display, reproduce, and transmit the Client Content solely for the purpose of providing the Urjanet Services to Client and performing Urjanet's obligations under this Agreement; and (b) debug software problems and provide technical support to Client, and (c) all aggregated or anonymized information generated from Client Content and the Data Feed.

2.2 Urjanet. Urjanet reserves all rights not expressly granted to Client in this Agreement. Subject to the rights granted to Client above, Urjanet owns and retains all right, title, and interest in and to the following (collectively, "Urjanet Content and Property"): (a) the Services, the related website and code, and all other software, hardware, technology, documentation, and information provided by Urjanet in connection with the Service; (b) all aggregated or anonymized information generated from Client Content and the Data Feed; (c) all ideas, know-how, and techniques that may be developed, conceived, or invented by Urjanet during its performance under this Agreement; (d) any other information created by or originating from Urjanet or the Services; and (e) all worldwide patent, copyright, trade secret, trademark and other intellectual property rights in and to the property described in clauses (a), (b), (c) and (d) above.

3. Client Obligations.

3.1 Authorization. For the purposes set forth in this Agreement, Client is responsible for ensuring that Client or its End User are

authorized to provide data to Urjanet, and Urjanet is authorized to collect data on behalf of the Client or its End Users. Client certifies that it will obtain the End User's explicit authorization, pursuant to a clear and conspicuous notice, to permit Client and Urjanet to access and use the Data Feed for analytical, trending, business intelligence, or other appropriate services, and for other purposes permitted by law. Client will include language such as the following to which an individual End User must specifically consent: "I hereby authorize (Name of Client) and its service provider to use my credentials to access my utility account information and use the utility information in connection with my transaction with (Name of Client) and to utilize the information for any purpose permitted by law." Client recognizes that failure to obtain such authorization may result in irreparable harm to Urjanet and, notwithstanding anything else in this Agreement to the contrary, shall be liable for any losses, costs or expenses that Urjanet may suffer from its failure to obtain such authorization.

3.2 Security. Client is responsible for securely managing access credentials (e.g. username and password) for the Services and shall contact Urjanet if Client becomes aware of any unauthorized access to Client accounts or unauthorized disclosure of said access credentials. Client shall cooperate with Urjanet as necessary to comply with those processes or procedures required by law or by the utilities from which Urjanet will obtain data in order to ensure that Urjanet is authorized to collect, process and transmit the data to provide the Urjanet Services as set forth in this Agreement.

4. Fees and Payment.

4.1 Fees. In consideration for Urjanet's provision of the Urjanet Services, Client shall pay to Urjanet the fees as specified in a Service specific agreement and fees for any additional professional services subject to the terms set forth in such agreement. Delinquent fees are subject to a 1% per month interest charge and may result in suspension of the Services until paid.

4.2 Taxes. In addition to the fees payable hereunder, Client agrees that it will be responsible for any sales, use or similar tax in connection with Urjanet Services or any professional services provided by Urjanet to Client hereunder.

5. Representations and Warranties.

5.1 General. Each party represents and warrants that: (i) it is a legal entity duly organized, validly existing and in good standing; (ii) it has all requisite corporate power and authority to execute, deliver and perform its obligations hereunder; (iii) it is duly licensed, authorized or qualified to do business and is in good standing in every jurisdiction in which a license, authorization or qualification is required for the ownership or leasing of its assets or the transaction of business of the character transacted by it, except when the failure to be so licensed, authorized or qualified would not have a material adverse effect on its ability to fulfill its obligations hereunder; (iv) it will comply with all laws and regulations applicable to the performance of its obligations hereunder and will obtain all applicable permits and licenses required of it in connection with its obligations hereunder; (v) it will avoid deceptive, misleading or unethical practices that could adversely affect the performance of the other party's obligations under this Agreement or damage the reputation of the other party; (vi) it is not a party to any agreement with a third party, the performance of which is reasonably likely to affect adversely its ability or the ability of the other party to perform fully its respective obligations hereunder; and (vii) its performance of its obligations under this Agreement will not violate any other agreement between such party and any third party.

5.2 Urjanet Warranties. Urjanet represents and warrants that the Services and any professional services provided hereunder will be performed in a workmanlike manner and in accordance with applicable industry standards. Both parties acknowledge that Urjanet's ability to provide data is predicated on the Provider having a website with bill data that is accessible using normal web traversal methods. Urjanet shall not be obligated to provide data for any Provider that does not have such a website, or to provide data elements for a given Provider if that data is not available on the Provider's website. The parties understand and agree that Providers may periodically make changes to their billing systems and web sites. Urjanet will make commercially reasonable efforts to provide data to Client that is updated and accurate at all times. If any Provider makes such a change that impacts Urjanet's ability to access and provide data to Client, Urjanet will notify Client promptly of the nature of such change, the impact it will have on Urjanet's ability to provide data from that Provider and the steps that Urjanet is taking to address the situation, with the understanding that Client's use of the data is critical, and therefore Urjanet shall strive to make any system updates necessitated by a Provider change in less than five (5) business days. If a Provider charges a transaction fee in order to access the required data, then Urjanet will promptly notify Client of such fee and will not obligate Urjanet or Client to pay such fee without Client's prior written approval.

5.3 Disclaimer. Other than as expressed in this Section 5 and 3, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES,

AND EACH PARTY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, MADE WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ERROR-FREE USE, OR FITNESS FOR A PARTICULAR PURPOSE.

6. Term.

This Agreement shall be effective as of the date of the initial Order Form and shall remain in effect until all Order Forms hereunder have expired or been terminated. Except as otherwise specified in an Order Form, Order Forms will automatically renew for additional periods equal to the expiring term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant term. The per-unit pricing during any renewal term may increase by up to 5% above the applicable pricing in the prior term.

7. Termination.

7.1 Termination for Cause. Either party may terminate this Agreement by giving written notice to the other party upon the occurrence of an Event of Default on the part of the other party. An "Event of Default" means a material breach by the other party of any of its representations, warranties or obligations (including payment of Fees) under this Agreement that remains uncured for a period of thirty (30) days after receipt of written notice of such breach from the non-defaulting party. Urjanet may terminate this Agreement immediately in the event Client has violated any law applicable to the Services, has failed to obtain End User consent as provided in Section 3, or in the event any new legal or regulatory provisions make the particular services not viable.

7.2 Termination for Insolvency. Either party may terminate this Agreement by giving written notice to the other party if such other party: is unable to pay its debts generally as they become due; is declared or otherwise becomes insolvent; is subject to a general assignment for the benefit of creditors; is subject to the appointment of a receiver for its business or assets; or is subject to any proceedings under any bankruptcy or insolvency law or liquidation, voluntary or otherwise.

7.3 Effects of Termination. Upon any termination or expiration of this Agreement under Section 7.1 or Section 7.2:

- a. Client shall promptly cease using the Urjanet Services. Client acknowledges and agrees that Urjanet may immediately deactivate or delete Client's account and all related information and files in Client's account and/or prohibit any further access to all files and the Services by Client. Further, Client agrees that Urjanet shall not be liable to Client or any third party for any termination of Client's access to the Services;
- b. Any amounts owed to Urjanet through the effective date of termination of this Agreement shall be immediately due and payable; and
- c. Each party shall return to the other party or destroy (and, upon request, certify such destruction) the Proprietary Information of the other party and all copies thereof.

8. Confidentiality.

8.1 Definition. "**Proprietary Information**" means the terms of the Agreements between the parties and all non-public business information conveyed by one party (the "**Disclosing Party**"), to or received by the other party (the "**Receiving Party**") including, but not limited to, information relating to: (i) the Disclosing Party's planned or existing computer systems and systems architecture, including computer hardware, computer software, source code, object code, documentation, methods of processing and operational methods; (ii) the Disclosing Party's customer lists, sales, profits, organizational structure and restructuring, new business initiatives and finances; and (iii) the Disclosing Party's services and products, product designs, and how such products are administered and managed. Notwithstanding the foregoing, Proprietary Information will not include information that: (a) is or becomes generally known to the public not as a result of a disclosure by the Receiving Party, (b) is rightfully in the possession of the Receiving Party prior to disclosure by the Disclosing Party, (c) is received by the Receiving Party in good faith and without restriction from a third party, not under a confidentiality obligation to the Disclosing Party and having the right to make such disclosure; or (d) the Receiving Party can demonstrate by documentary evidence was independently developed by the Receiving Party without use of or reference to the Disclosing Party's Proprietary Information.

8.2 Restrictions. Each party shall protect the Proprietary Information of the other party with the same standard of protection and care that it uses for its own Proprietary Information, but in no event less than reasonable care and diligence. Neither party shall disclose,

publish, transmit or make available all or any part of such Proprietary Information except in confidence or a need-to-know basis to its own employees and third party contractors who have undertaken a written obligation of protection and confidentiality at least as protective as those obligations stated herein, and shall not duplicate, transform or reproduce such Proprietary Information except as expressly permitted hereunder. Each party will use the other party's Proprietary Information solely for purposes of performing its obligations or exercising its rights under this Agreement. Upon termination or expiration of this Agreement, or at any time the Disclosing Party may request, the Receiving Party will deliver promptly to the Disclosing Party or, at the Disclosing Party's option, destroy all memoranda, notes, records, reports, media and other documents and materials (and all copies thereof) regarding or including any Proprietary Information that the Receiving Party may then possess or have under its control.

8.3 Disclosure as Required by Law. The Receiving Party may disclose Proprietary Information to the limited extent required by law; provided, however, that, to the extent permitted by law, the Receiving Party notifies the Disclosing Party in writing in advance of such disclosure and provides the Disclosing Party with copies of any related information so that the Disclosing Party may take appropriate action to protect the Proprietary Information.

8.4 Remedies. The Receiving Party acknowledges that the disclosure of Proprietary Information in breach of the terms of this Section 8 may cause the Disclosing Party irreparable injury and damages that may be difficult to ascertain. Therefore, the Disclosing Party, upon a disclosure or threatened disclosure of any of its Proprietary Information, will be entitled to injunctive relief (without being required to post a bond) to protect and recover its Proprietary Information, and the Receiving Party will not object to the entry of an injunction or other equitable relief on the basis of an adequate remedy at law, a lack of irreparable harm or any other reason. Without limitation, if the Receiving Party learns or has reason to believe that the Disclosing Party's Proprietary Information has been accessed or disclosed in violation of this provision, the Receiving Party will promptly notify the Disclosing Party. This provision will not limit any other remedies as might be available to the Disclosing Party at law, in equity or under this Agreement.

9. Limitation of Liability.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, BUSINESS INFORMATION, AND THE LIKE) ARISING OUT OF THIS AGREEMENT OR ARISING FROM OR RELATING TO THE PARTIES' PERFORMANCE OR NON-PERFORMANCE OF ANY OF THEIR RESPECTIVE OBLIGATIONS HEREUNDER, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES OR OTHERWISE, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EXCEPT FOR A FAILURE OF CLIENT TO OBTAIN AUTHORIZATION AS PROVIDED IN SECTION 3.1. EXCEPT FOR EACH PARTY'S INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT, THE LIABILITY OF A PARTY FOR ANY CLAIM ARISING FROM OR RELATING TO THIS AGREEMENT, INCLUDING (BUT NOT LIMITED TO) ANY CAUSE OF ACTION SOUNDING IN CONTRACT, TORT, OR STRICT LIABILITY, SHALL NOT EXCEED THE SUM OF ALL FEES PAID BY CLIENT UNDER THIS AGREEMENT FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH DAMAGES ARE FIRST SOUGHT IN RESPECT OF SUCH CLAIM.

10. Liability in Third Party Claims.

Client shall indemnify, defend, and hold harmless Urjanet and its officers, employees, shareholders, authorized agents, and permitted assigns ("Urjanet Indemnified Parties") from and against any and all claims filed, made or asserted against the Urjanet Indemnified Parties (or any of them), by any third party, and any damages, losses, expenses or liabilities (including but not limited to reasonable attorneys' fees and court costs) incurred by the Urjanet Indemnified Parties (or any of them) as a result of such claims, which arise from Client's failure to obtain authorization or its gross negligence or reckless misconduct.

11. General.

11.1 Relationship of Parties. The relationship of the parties is that of independent contractors, and this Agreement shall not be construed to create any employment relationship, partnership, joint venture, or agency relationship or to authorize any party to enter into any commitment or agreement binding on the other party.

11.2 Publicity. Client agrees to allow Urjanet to use their name, trademark, service mark, trade name, logo or other commercial or product designations exclusively for the purposes of marketing the Urjanet Services. Urjanet will not issue a press release or create a case study pertaining to Client's use of the Urjanet Service without receiving prior written consent of Client.

11.3 Assignment. Neither party may assign or delegate its rights, duties or obligations under this Agreement without the prior written consent of the other party, which will not be unreasonably withheld, delayed, or conditioned. Notwithstanding the foregoing, either party may assign all of its rights and obligations under this Agreement (i) to a successor-in-interest as a result of a merger or consolidation or in connection with the sale or transfer of all or substantially all of its business or assets to which this Agreement relates, or (ii) to an affiliate, without the other party's approval. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties, their successors and permitted assigns.

11.4 Force Majeure. Except with respect to delays or failures caused by the negligent act or omission of either party, any delay in or failure of performance by either party under this Agreement will not be considered a breach of this Agreement and will be excused (except, however, for the obligations of Client to pay fees as provided herein) to the extent caused by any occurrence beyond the reasonable control of such party including, but not limited to, acts of God, fire, flood, explosion, epidemic, pandemic, governmental action, national emergency, wars, terrorism, riots, civil disturbances and strikes, power outages, or failures of the Internet (a "Force Majeure Event") provided that the party affected by the Force Majeure Event will immediately begin or resume performance as soon as practicable after such event has abated.

11.5 No Waiver. No delay or failure in exercising any right hereunder and no partial or single exercise thereof shall be deemed to constitute a waiver of such right or any other rights hereunder. No consent to a breach of any express or implied term of this Agreement shall constitute a consent to any prior or subsequent breach.

11.6 No Modification. No modifications, waivers, additions or amendments to this Agreement shall be effective unless made in writing as an addendum to this Agreement with an electronic signature by duly authorized representatives of the parties.

11.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

11.8 Severability. If any provision hereof is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable law.

11.9 Construction. Should any provision of this Agreement require judicial interpretation, the parties agree that the court interpreting or construing the same shall not apply a presumption that this Agreement shall be more strictly construed against one party than the other.

11.10 Notices. All notices required to be given hereunder shall be given in writing and shall be delivered either by hand, by certified mail with proper postage affixed thereto, or by facsimile (with confirmation copy sent by certified mail) addressed to the signatory at the address set forth on the first page, or such other person and address as may be designated from time to time in writing. All such communications shall be deemed received by the other party upon the earlier of actual receipt or actual delivery.

11.11 Governing Law and Jurisdiction. This Agreement and the parties' respective performance hereunder will be governed by the laws of the State of Georgia, without regard to its conflicts of laws rules. Urjanet and Client hereby agree on behalf of themselves, and any person claiming by or through them, that the sole jurisdiction and venue for any litigation arising from or relating to this Agreement will be an appropriate federal or state court located in Fulton County, Georgia.

11.12 Dispute Resolution. If at any time during the Term of this Agreement, there arises a claim, issue or disagreement about the substance or performance of this Agreement or any term or condition hereof (collectively, a "Dispute"), the disputing party shall notify the other party in writing of such Dispute (including a description of the subject matter of the Dispute) pursuant to the processes set forth in this Section 11.12. Prior to commencing any lawsuit or other proceeding, the parties shall attempt to negotiate in good faith an amicable business resolution of the Dispute. If the parties cannot resolve such Dispute within twenty (20) business days after the receipt of the notice of Dispute by the receiving party, either party may pursue any and all remedies available at law or in equity. This Dispute Resolution provision shall not prevent either party from seeking immediate injunctive or other equitable relief to address a breach or threatened breach of the confidentiality provisions herein or a breach of any other provision of this Agreement that causes or threatens to cause such party irreparable harm.