

## **Terms of Use**

This Site is owned and operated by Gordon Energy Solutions L.L.C. (“GES”) and is made available to users subject to the user’s compliance with these Terms of Use. Throughout this agreement the terms “you” and “subscriber” are interchangeable.

By entering the GES web site you accept the terms recited in this “Terms of Use”, and you agree that those terms are a contractual obligation, and you agree that you and any entity on whose behalf you are entering the GES web site are legally bound by the terms and limitations recited in these Terms of Use. All access to, and use of, the GES website (“Site”) and/or the GES data, information and/or software products and services, is subject to, and governed by, this Agreement. By accessing or using the Site or by accessing, downloading and/or using any GES data, services or products, you confirm your acceptance of these terms and your obligation to abide by these terms. GES reserves the right to update the Agreement at any time without notice to you, and from the date of any update or revision to these Terms of Use, the revised and updated version of the Terms of Use will be binding on you and any entity on whose behalf you enter the GES Site.

Password protected sites or links may contain terms of use in addition to or different from these Terms of Use, and those additional terms will govern if there is a conflict with the Terms of Use in this Agreement. If a written agreement exists between GES and the user (or the entity on whose behalf user is accessing the GES Site), that written agreement shall supersede any conflicting terms in these Terms of Use.

### **Ownership**

You agree that GES retains all ownership rights in the GES data, information and/or software products and services that are accessible through this Site. You, and any entity on whose behalf you are entering the GES web site, disclaim any ownership right in the GES data, information and/or software products and services that are accessible through this Site.

### **Copying, Transfer, Reproduction**

You, and any entity on whose behalf you are entering the GES web site, agree that you will not copy, transfer or reproduce the information and/or software products and services that are accessible through this Site except for your use and the internal use of others who are employed by the same entity on whose behalf you enter the GES Site. You will not transfer to a third party the information and/or software products and services that are accessible through this Site, but you are permitted to transfer, copy and reproduce the information etc. for use internally by the same entity on whose behalf you have entered the GES Site. Any transmittal, copying, reproduction or display of the information etc. must be accompanied by a notice identifying GES as the source, as indicated below.

### **Identification of GES as Source**

# **GORDON ENERGY SOLUTIONS**

When you copy, transfer, reproduce or display the information and/or software products and services that are accessible through this Site for viewing by others, you will visually clearly identify GES as the source of the information etc.

## **Prohibited Transmittal, Display**

Any entity that provides services similar to those provided by GES may not be allowed to view, copy, reproduce or possess the information and/or software products and services that are accessible through this Site. Under no circumstances will a competitor of GES be deemed to be an authorized viewer or recipient of the information and/or software products and services that are accessible through this Site.

## **Termination of Access**

At the end of the period covered by your access fee, you and any entity on whose behalf you have had access to the GES Site will not have access to the Site, and will not have access to any of the information in the Site except the information that you lawfully acquired during the period covered by your access fee. GES has the option to terminate your Site access, without notice for: (a) any conduct, that GES, in its sole but reasonable discretion, believes is in violation of any applicable law or is harmful to the interests of another user, a third-party provider, a service provider or GES; or (b) an attempt to disrupt or interfere with GES' servers, networks, computer programs, information or services; or (c) if you attempt to use, disclose or disseminate any GES Product or information in violation of this Agreement. Further, any unauthorized or prohibited use may additionally subject the offender to civil liability and criminal prosecution under applicable national, federal and state laws. In addition to any other remedies available to GES hereunder, at law or in equity, if GES determines that Subscriber has allowed or committed access in violation of this Agreement, then GES may halt, restrict or limit subscription access or duration to the GES Products, require additional user registration or authentication information, or charge additional charges, for which Subscriber will be solely responsible to pay. In the event of termination, you will remain bound by applicable use, confidentiality and nondisclosure and indemnity sections of this Agreement.

## **Linking GES Site to Other Sites**

Linkage of the GES Site to another web site requires GES' prior written approval. This Site may contain links to other Internet sites, resources and/or sponsors of the Site. GES does not verify, warrant, endorse or take responsibility for the availability, accuracy, completeness or quality of the content contained in these outside sites.

## **Registration**

You become an authorized user and licensee of GES the GES data, information and/or software products and services by paying to GES the access fee for the specific products or services. Your access to the GES Site requires that you complete the registration process and agree to all the provisions of these Terms of Use together with any terms and conditions that are product specific.

# **GORDON ENERGY SOLUTIONS**

For some GES products and services limited access to the GES Site may be available on a temporary basis without completing the registration.

## **Passwords**

GES may assign a separate identification (“ID”) and password for each authorized user within the company to access the subscribed product or may provide one password for each company, in which case such password may only be shared with your company’s authorized users at the licensed site. You must immediately inform GES in writing when any authorized user of your company: (a) ceases employment with your company; or (b) is no longer an authorized user. For all GES Products, you agree that you are solely responsible for and liable for any expenses, costs, liabilities, and damages incurred by unauthorized access to your account and/or failure to so inform GES.

## **Rights of Access and Use**

Subject to the other terms of this Agreement, GES grants to Subscriber a nonexclusive, nontransferable, non-assignable, revocable right and license to use, but not to own, the GES data, information and/or software products and services for a specific term of (“Term”) as agreed between the parties in writing.

## **Confidentiality and Retention of Information by Subscriber**

You agree to hold GES Products in strict confidence and shall not reproduce, reverse engineer, disassemble, download permanently, create derivative works, license, sell, reveal, disseminate or make GES Products accessible in whole or in part, in any manner whatsoever, to others. Other than as set forth herein, you may not permanently retain any GES product or service in any file or on any hard drive, server or other form of memory. You must not remove any proprietary legends or markings, including copyright notices, electronically encoded information, watermarks or any GES-specific markings.

The Subscriber may store in memory, manipulate, analyze, reformat, print and display the GES data, information and/or software products and services only for internal business purposes and not for retransmission, license, sale, distribution or use by or for third parties. The Subscriber may make one copy of the software for archival/back-up purposes, but shall not reverse engineer, recompile, decompile, alter or modify the GES Software Product. For purposes hereof, “archival” means only one copy that is not accessed on a day-to-day basis for reference or other purposes and is only used in emergencies, such as when Subscriber’s access to GES’ electronic access is unavailable. For purposes of these Terms of Use, “archival” means only one copy that is not accessed on a day-to-day basis for reference or other purposes and is only used in emergency situations, such as when the Subscriber’s access to GES’ electronic access is unavailable. If the Product is NOT an GES Energy Product (see the last paragraph for a description of “GES Energy” companies), the Subscriber also may retain copies of the Products, or any portion thereof, if specifically required by law, to insert as part of a limited number of final official project files, which such files also are not used on a day-to-day basis for reference

# **GORDON ENERGY SOLUTIONS**

purposes. The Subscriber must use Product or any portion thereof in strict accordance with all applicable U.S. Copyright laws, including without limitation, the Fair Use Doctrine.

## **Security Measures**

GES may impose security measures that GES believes to be appropriate to ensure compliance with these Terms of Use, including covert and overt copy-detection and license awareness technology and encoding of requestor/user information in printed and electronic formats.

## **Payment**

The Subscriber is responsible for all charges incurred in connection with its account, all applicable taxes, delivery charges, telephone, hardware and connection charges. All charges are non-refundable. All charges are payable on net thirty-day (30) terms from the date of invoice. The failure to make a timely payment will result in the termination of Subscriber's access to the GES Site. If any payment is not made when due, then the entire amount shall immediately become due and payable upon written notice. The Subscriber agrees to pay all collection and reasonable attorneys' fees incurred by GES in GES' efforts to collect any past due amounts.

## **Renewal of Access**

If a Purchase Order entitles you to renew this Agreement, and if you are not in breach of this Agreement, this Agreement will renew for successive renewal terms equal in length to the initial term, but in no event less than 1 year, unless Subscriber provides GES with written notice of its intent not to renew no less than 30 days prior to the end of the initial or any renewal term. Termination under this subsection will be effective 30 days from the day GES receives notice of termination.

## **Assignment**

This Agreement and the access granted by this Agreement may not be assigned, delegated or in any other manner transferred by Subscriber, by operation of law or otherwise, without the express prior written consent of GES. Subscriber may not grant affiliates, subsidiaries or successors-in-interest any right to use GES product or services without GES' express prior written consent, which may be withheld in GES' sole discretion. Any attempted assignment, delegation or other transfer will be null and void.

## **Warranty Disclaimer**

**GES products and services are provided "AS IS" and use of and access to the GES Products and the Site is at Subscriber's sole risk, and GES DISCLAIMS, NEGATES AND NULLIFIES ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND INFRINGEMENT. GES does not guarantee that access to an GES Product will be uninterrupted, available, accessible or error free or that the Site or GES**

# **GORDON ENERGY SOLUTIONS**

**Product will be free of infection by “viruses”, “worms”, “Trojan horses” or other contaminating or destructive properties.**

## **Limitation of Liability**

**To the maximum extent legally permissible, GES will not be liable to the Subscriber or any other party for any claim based on statute, contract, tort or otherwise or for any damages, including without limitation, direct, indirect, special, lost profit, punitive, incidental or consequential damages, arising out of or in connection with this Site or the use of a GES product or service. Subscriber assumes the sole responsibility for its use of the GES products and services**

## **Use Outside U.S.**

Subscriber is responsible for compliance with applicable laws and regulations, including the U.S. laws and regulations governing export and re-export of goods and services, the Foreign Corrupt Practices Act and US anti-boycott regulations.

## **Remedies**

Subscriber agrees that Subscriber’s unauthorized transmittal, copying, reproduction or use of GES’ products or services would irreparably harm GES and cause damages that could not be adequately and compensated for by monetary damages. GES shall have the right, in addition to any other legal rights or remedies, to obtain temporary, preliminary and permanent injunctive relief without the necessity of proving actual damages and without posting any bond or other security.

## **Privacy**

GES does not sell, rent or lease its user lists or information to third parties. GES may disclose your personal information, without notice, if required to do so by law or in the good faith belief that such action is necessary to: (i) comply with legal process served on GES; or (ii) protect and defend GES’ property rights in and to its Products, or the security or safety of its users and Site.

GES reserves the right to collect user information via "cookies." Cookies are text files placed by a user's browser by a web server to the user's hard disk, and are an industry standard used by most major websites. They cannot be used to run programs or deliver viruses to your computer. Users have the option to set their browsers so that they have the ability to refuse cookies.

If you are an individual resident in a Member State of the European Union, you agree that GES may collect, use and disclose your personal data as described in this Privacy Policy and any amendments hereto. You are entitled to see the information held about you and you may ask us to make any necessary changes to ensure that it is accurate and kept up to date. If you wish to do this, please contact us.

## **Entire Agreement**

# **GORDON ENERGY SOLUTIONS**

These Terms of Use, and any separate purchase order or contract, set forth the entire agreement of the parties with respect to access to the GES Site and the use, transfer, copying, display, etc. of the GES products, data, information and services. If Subscriber has executed a written agreement with GES, the terms and conditions of such written agreement shall govern and supersede any inconsistent terms and conditions of this Agreement.

## **Notices**

Any notices from GES required or permitted will be given to you by: (i) electronic mail to your address indicated on the registration form; or (ii) conventional mail to your billing address. Any notices you are required or permitted to give to GES may be sent to GES, re: [name of GES Product], 11286 Hadley St, Overland Park, KS 66210, USA. No amendment to or modification of this Agreement will be binding unless in writing and signed by GES.

## **Governing Law**

The laws of the State of Kansas and the United States of America govern the interpretation and disputes arising from or related to this Agreement, in each instance as though such jurisdictions' choice of law provisions did not exist.

## **Forum Selection**

Except as recited below regarding arbitration, any suit, claim or litigation between GES and you or any Subscriber shall be commenced in either the District Court of Johnson County, Kansas, or the United States District Court for the District of Kansas. The District Court of Johnson County, Kansas and the United States District Court for the District of Kansas are the sole and exclusive courts in which either GES or any Subscriber may file or initiate any legal proceeding regarding either: (1) these Terms of Use, or (2) any dispute regarding the products, data, information or services provided by GES, or (3) amounts owed or claims for unpaid debts relating to the products, data, information or services provided by GES.

## **Arbitration**

The parties may agree in lieu of a civil suit to arbitrate their claims and disputes. If the parties agree to arbitrate claims or disputes, the arbitration shall occur in metropolitan Kansas City, and any ruling shall be subject to judicial enforcement and registration as permitted by law. Any such arbitration shall be with a single arbitrator, and subject to the American Arbitration Association's rules governing commercial disputes.