

# REQUEST FOR CONFIDENTIAL INFORMATION

Please fill in the form and send it to the ENTSO-E Secretariat ([ldm@entsoe.eu](mailto:ldm@entsoe.eu)) for a formal check. When the ENTSO-E Secretariat confirms a formal correctness of the form, please print the form and all annexes out, sign, scan and send them back as a PDF file and by registered mail or courier at the address rue de Spa 8, 1000 Brussels, Belgium.

<b>1. Recipient (person or entity requesting ENTSO-E data):</b>		
Company / Address:	Contact person:	
	Name:	
	Phone number:	
	E-mail:	
<b>2. Describe what ENTSO-E data you request access to:</b>		
<b>3. Describe the concrete and specific study or project for which you are requesting the data. Give copy of any official document(s) on the study or on the project and describe your relationship with the persons or entities having commissioned the project or the study. Provide information on the financing and on the timing of your project or your study</b>		
<b>4. Describe the expected use of the study or project for which you are requesting the data.</b>		
<b>5. Define the preferred format of data requested:</b>		
<b>6. Describe for what precise purpose the data requested will be used in the frame of the study or project described under 4 and by whom they will be used.</b>		
<b>7. Will the requested information be used by other persons or entities? If yes, indicate all of them (including names, addresses, contact persons and contact details) in the attachment to this form.</b>		
<b>8. Do you seek access to information subject to a prohibition on public disclosure in applicable EU, national or regional laws? If yes, please describe how you qualify to receive such information:</b>		
<b>9. Commitments:</b>		
By signing this document, the Recipient:		
a) confirms that all information provided in this document is true and correct;		
b) undertakes to comply with the General Terms and Conditions of Data Use which forms an integral part of this request.		
<b>10. Remarks &amp; list of annexes:</b>		
<b>11. Signed on behalf of the Recipient:</b>		
Name and title:	Signature:	Date:

## GENERAL TERMS AND CONDITIONS OF DATA USE

1. **Definitions.** Unless specified otherwise the capitalized terms used herein shall have the meaning set forth below:

“**Authorized Purposes**” means the purposes of the use of the Confidential Information that are indicated in the Undertaking form, in particular in points 3, 4 and 6;

“**Confidential Information**” means the data requested by the Recipient and all non-public or proprietary information, whether or not it is marked as confidential, including, but not limited to, models, studies, data, market research plans, marketing plans, concepts, designs, test results, processes, formulae, reports, records, findings, financial information, customer information, know-how, software, computer plans, flow charts, business plans, inventions or ideas, agreements developed and/or concluded by the Parties, which the Disclosing Party provides or gives access to, be it orally, in writing, in electronic form or in any other form whatsoever, to the Recipient. Confidential Information provided before the date of the Undertaking enters into force shall be covered by the Undertaking;

“**ENTSO-E**” or “**Disclosing Party**” mean European Network of Transmission System Operators for Electricity, a non-profit organization incorporated under the laws of Belgium having its registered office at rue de Spa 8, 1000 Brussels, Belgium, registered under number 0809819049;

“**Parties**” means the Disclosing Party and the Recipient collectively and the “**Party**” means any of them;

“**Project**” means the study or project for which Recipient has requested the Confidential Information;

“**Recipient**” means the person or entity that has requested data from ENTSO-E and has accepted these Terms;

“**Terms**” means this “General Terms and Conditions of Data Use” document which forms an integral part of the Undertaking;

“**Undertaking**” means the document signed by the Recipient whereby the Recipient undertakes to comply with these Terms.

2. **Exceptions.** Subject to a strict interpretation, Confidential Information shall not include any information that:

- (i) is demonstrated, to the reasonable satisfaction of the Disclosing Party, to be already known to the Recipient at the time of disclosure, through no fault or negligence of the Recipient or any person to whom it disclosed Confidential Information pursuant to these Terms; or
- (ii) is generally available to the public or becomes publicly known through no wrongful act of the Recipient or of other person to whom Confidential Information is disclosed by the Recipient; or
- (iii) is received by the Recipient from a third-party who had a legal right to provide it.

3. **Non-Disclosure and Use Commitments.** The Recipient commits:

- (i) to use and exploit the Confidential Information only for the Authorized Purposes, unless it is specifically authorized in writing by the Disclosing Party;
- (ii) not to disclose, convey or transfer Confidential Information in any form whatsoever without the express, prior written consent of the Disclosing Party;
- (iii) not to copy or reproduce Confidential Information in any form whatsoever except as may be strictly necessary for the Authorized Use, compliance with applicable law, and standard computer back-up procedures;
- (iv) not to share or disclose in any manner whatsoever any Confidential Information to any person or entity, including any affiliates or other

people or entities within its group, other than as permitted under Clause 5 of the Terms; and

- (v) to announce in a transparent and non-equivocal way any alteration or modification the Recipient brings to the Confidential Information and in any case not to present any altered or modified Confidential Information as the product of the Disclosing Party.
  - (vi) The Recipient shall regularly inform the Disclosing Party on the uses of the Confidential Information that are related to or may have an impact on the Disclosing Party's or any of its member, associated member or observer member's activities. The Parties shall cooperate to ensure as much as possible the optimal use of the Confidential Information.
4. **Protection.** The Recipient shall:
- (i) Immediately (and in any event within three (3) days) in the event of any unauthorized use or disclosure of the Disclosing Party's Confidential Information, take all reasonable steps to mitigate any harmful effects the Disclosing Party may sustain or incur as a result of such a breach of these Terms;
  - (ii) Immediately (and in any event within three (3) days) return all Confidential Information in any tangible form whatsoever at the first written request of the Disclosing Party and shall destroy or cause to be destroyed all copies in its possession and in the possession of persons to whom it was disclosed pursuant to these Terms. The Recipient shall, after the destruction of all copies confirm to the Disclosing Party in writing that it and all persons to whom it has disclosed Confidential Information pursuant to these Terms have destroyed all copies of Confidential Information. However, the Recipient shall have the right to keep copies for archival purposes if it is legally obliged to do so to comply with the applicable legislation in jurisdiction of the Recipient, and as necessary to comply with standard computer back-up procedures. In these circumstances, the Recipient shall take all reasonable steps to ensure, in compliance with the Terms the protection of the confidentiality of the Confidential Information kept for archiving purposes.
5. **Available information.** Notwithstanding Clauses 1 to 4 of the Terms, the Recipient may disclose Confidential Information without prior written consent of the Disclosing Party when:
- (i) in the event of disclosure by the Recipient to its directors, members of management, officers, employees, subcontractors, agents, professional advisors, external consultants and insurers, the following conditions are met:
    - a) the person to whom the Confidential Information is disclosed has a definite need to know such information for the execution of the Authorised Use; and
    - b) the person to whom the Confidential Information is disclosed is informed by the Recipient in writing of the confidential nature of the Confidential Information; and
    - c) in case of directors, members of management, officers, employees, the Recipient undertakes to ensure they are bound to not disclose the Confidential information; and
    - d) in case of subcontractors, agents, professional advisors, external consultants and insurers, the Recipient has provided the Disclosing Party, before granting any access to Confidential Information, with the written agreement or other binding obligation of such subcontractors, agents, professional advisors, external consultants and insurers to be bound by terms at least equivalent to these Terms.

The Recipient undertakes to have sufficient procedures and protections in place to enforce and maintain confidentiality and prevent unauthorised use and any unauthorised disclosure of Confidential Information by any person to whom Confidential Information is disclosed. In addition, the Recipient agree to enforce, to the maximum extent possible, adequate procedures and protections against any person to whom Confidential Information is disclosed to maintain confidentiality and prevent unauthorised use and unauthorised disclosure of the Confidential Information.

- (ii) in the event of disclosure by the Recipient to its attorneys-at-law, such disclosures are in any event subject to continued and legally binding confidentiality obligations at least equivalent to these Terms.
- (iii) such disclosure is required by any law or regulation or by an order of a judicial, regulatory or other public competent authority. However, the Recipient shall immediately give the Disclosing Party written notice of this prior to any such disclosure and the Parties shall, as far as possible, agree on the content and form of the Confidential Information to be disclosed.
6. Project Results.
- (i) The Recipient shall inform the Disclosing Party about the results of the Project (“**Results**”) and provide a copy of it. The Recipient shall also provide interim Results of the Project if requested by the Disclosing Party.
- (ii) The Recipient authorises the Disclosing Party to use the Results for any of the following purposes:
- to enhance security of supply and sustainability of the transmission system;
  - to enhance the competition within the energy market;
  - to implement any ENTSO-E and its members obligations required by the law;
  - any internal purposes of the Disclosing Party and/or its members (including associate members and observer members).
- (iii) In case the Results have been indicated as confidential information by the Recipient, the Disclosing Party shall use them under the same terms and conditions as set out in the Terms. For the avoidance of doubt, the penalties indicated in Clause 7 of the Terms shall not be applicable to the Disclosing Party.
- (iv) In case the Results are protected by the intellectual property rights and/or equivalent or similar forms of protection, the Disclosing Party is authorised to use the Results for authorised purposes for the entire duration of these rights and the territory of the whole World, despite the possible termination of the Undertaking.
- (v) The Recipient may publish the Results provided it:
- shares the Results with the Disclosing Party for information prior to the publication; and
  - does not publish any Confidential Information with the Results.
7. Liability. The Recipient acknowledges that the Disclosing Party makes no representation or warranty as to the accuracy or completeness of the Confidential Information and that the Disclosing Party shall have no duty to provide and/or update such information nor any liability whatsoever with respect to the use by the Recipient of such information under these Terms, unless otherwise expressly agreed in a separate written and signed agreement.
- The Recipient shall be responsible to the Disclosing Party for any act or omission of the entities and persons described in Clause 5 of the Terms that would have breached the Undertaking as if the act or omission had been performed by the Recipient.
- In case of a breach by the Recipient of any of its obligations under the Undertaking, the Disclosing Party shall be entitled to claim compensation for any and all losses, damages, charges, fees or expenses, expected and unexpected, which can be considered as a direct damage arising out of the Undertaking. The compensation shall be equivalent to € 25.000 per breach, with a limitation of the amount of compensation to € 100.000 per contractual year.
8. Remedies. The rights and remedies contained in the Undertaking are cumulative and not exclusive of any rights or remedies provided by law. Compensation would not be an adequate remedy for any breach of the Undertaking and the Disclosing Party shall be entitled to the remedy of injunction, specific performance and other equitable or similar relief for any threatened or actual breach of the Undertaking and no proof of special damages shall be necessary for the enforcement of the Undertaking.
9. Term and Termination. The Undertaking shall enter into force on the date it has been signed by the Recipient. It shall remain in force for a minimum period of at least five (5) years and thereafter until the Disclosing Party confirms in writing to the Recipient that Confidential Information is no longer confidential. After five (5) years from the entry into force of the Undertaking, the Recipient may request from the Disclosing Party to confirm that the information is no longer Confidential Information. The Disclosing Party shall be under no obligation to make or provide such confirmation.
- The Disclosing Party may terminate the Undertaking and/or the Recipient’s right to use the Confidential Information under the conditions and for the purposes of the Undertaking in writing for any reason, without any necessity to state reasons, and at any time. The termination shall have immediate effect.
- The termination of the Undertaking shall not relieve the Recipient from its obligations hereunder with respect to Confidential Information and shall not affect the coming into force or the continuation in force of any of the Undertaking provisions which are intended to come into force or continue to be in force on or after termination.
10. Miscellaneous.
- (i) Completeness. The Undertaking contains the entire understanding between the Parties related to the subject matter hereof, and supersedes all prior written and verbal negotiations, representations, and undertakings or agreements concerning the subject matter.
- (ii) Amendment. The Undertaking and information in it shall not be altered, amended or superseded by any subsequent Undertaking except by written agreement by both Parties.
- (iii) Non-waiver. Neither the failure of a Party at any time to enforce any of the provisions of the Undertaking nor the granting at any time of any other indulgence towards any Party shall be construed as a waiver of that provision or the right of a Party subsequently to enforce that or any other provision.
- (iv) Severability. If any provision of the Undertaking is held by a court of competent jurisdiction to be invalid, unenforceable or otherwise ineffective by operation of law, then the Undertaking, including all of the remaining terms, will remain in full force and the Parties shall negotiate in good faith to replace such invalid or unenforceable provision with a provision that corresponds as closely as possible to the original intention.
- (v) Assignment. The Undertaking shall be binding upon and inure to the benefit of the Parties and their permitted assignees and legal successors in interest. The Recipient shall not assign its rights or obligations under the Undertaking, except with the prior written consent of the Disclosing Party, which consent shall not be unreasonably withheld, conditioned, or delayed. No assignment shall relieve either Party of responsibility for the performance of any accrued obligation that such Party then has hereunder.
- (vi) Notice. Any notice required by the Undertaking or given in connection with it shall be in writing, given either by registered mail or by e-mail (with acknowledgement of receipt) to the appropriate Party or Parties at their contact address(es) indicated in the Undertaking.
- (vii) Title. All rights, title and interest in and to the Confidential Information shall be retained by the Disclosing Party. The Undertaking shall not be construed as granting the Recipient any license rights or any other rights related to the Confidential Information, unless this is agreed in a separate written and signed Undertaking.
- (viii) Governing Law and Arbitration. The Undertaking shall be governed by and interpreted in accordance with Belgium law. Any disputes or disagreement between the Parties arising under or in connection with the Undertaking shall be settled amicably between the Parties. The disputes which cannot be settled amicably shall finally be settled by arbitration in Brussels under the rules of arbitration of the CEPANI. The language of the mediation shall be English. The award of the arbitration will be final and binding upon the Parties concerned.