

Non - Disclosure Agreement

The **Cyprus Energy Regulatory Authority** (hereinafter referred to as **CERA**), represented for the purposes of signing this Agreement by

on the one part, and

..... (hereinafter referred to as), represented for the purposes of signing this Agreement by

on the other part,

individually hereinafter referred to as "the Party" and collectively as "the Parties",

Whereas this Agreement is concluded for the following purpose:

To ensure confidentiality of Parties regarding the Framework Agreement regarding the "Provision of consulting services to support CERA in matters related to the operation of the competitive electricity market"

Therefore, this Agreement is concluded for the protection of confidential information exchanged in the course of the above Contract.

Whereas the Parties are in possession of valuable information, knowledge, experience and data in aggregated form and of confidential nature relating to the execution of the Agreement between the Parties. The data might be related but not limited to:

- (a) Transmission and Distribution Systems of the Republic of Cyprus, and
- (b) any other data related to the scope of the Contract.

Whereas the Parties are willing to disclose such information on a cost-free basis to each other under terms of strict confidentiality, non-disclosure to third-parties, and non-use in any manner not explicitly authorised;

The Parties have agreed to be bound by the following conditions and obligations:

1. DEFINITIONS

.1. "**Confidential Information**" means (a) any and all information, materials, drawings, know-how or data relating to the Field which is disclosed or given by either Party ("**Disclosing Party**") to the other Party ("**Receiving Party**") either directly or indirectly, whether in writing or by any other means, including, but not limited to, formulae, designs, simulations, processes, manufacturing methods; proprietary, technical, operational and financial data; information relating to the performance and output of research and development activities; cost and pricing data as well as business plans, customer lists, studies, reports, quotations, offers; and any notes, analyses, compilations, interpretations, memoranda or other documents.

.2. "**Contract**" means the Framework Agreement signed between the Parties regarding the "**Consulting services to support CERA in matters related to the operation of the competitive electricity market**"

.3. "**Relevant Authorities**" means any authority in the Republic of Cyprus authorized under the Cyprus Law to carry out specific tasks related to the Permitted Purpose including but not limited to Cyprus Energy Regulatory Authority, Transmission System Operator of Cyprus and Electricity Authority of Cyprus in its role as Distribution System Operator.

.4. "**Staff**" means any permanent or temporary employee, contractor, consultant, employees of Relevant Authorities, service provider, visiting researcher, seconded personnel, sub-contractor, or a person engaged under a formal arrangement with either Party to an extent such person's actions are attributable to that Party.

.5. "**Affiliate**" means any company or entity controlled by or under common control with the relevant Party where "control" means direct or indirect ownership of at least 50% of the voting stock or interest in a company or entity, or control of the composition of the board of directors.

.6. "**Representative**" means any legal person or physical person duly authorised or empowered by a Party to act, speak or sign on its behalf.

.7. "**Permitted Purpose**" means activities and work carried out for the execution of the Contract.

2. SCOPE

.1. Each Party shall treat the Confidential Information disclosed by the other Party as strictly confidential. Neither Party shall disclose, transfer or make available in any way to any third party, other than the Relevant Authorities, such Confidential Information or any portions thereof. Receiving Party shall make use of any such Confidential Information only and strictly limited to the Permitted Purpose.

.2. Parties may disclose Confidential Information to their Affiliates and Representatives on a need-to-know basis. Each Party agrees to be responsible for any breach of this Agreement committed by its Representatives or its Affiliates to the same extent as if such were a party to this Agreement.

.3. In the event of one Party's Staff visiting the premises of the other Party, any further Confidential Information which may come to the knowledge of the visiting Party as a result of such visit shall be subject to the terms of this Article, and shall be treated accordingly by the visiting Party.

3. CONFIDENTIALITY UNDERTAKINGS

.1. The Receiving Party agrees with and undertakes to the Disclosing Party that its Representatives shall:

- a. keep in strict confidence and in safe custody any Confidential Information disclosed to the Receiving Party by the Disclosing Party;
- b. not use or exploit any Confidential Information other than for the Permitted Purpose;
- c. not copy or reproduce any or all the Confidential Information except as is reasonably necessary for the Permitted Purpose;

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- d. promptly comply with any reasonable directions of the Disclosing Party which are given for the protection of the security of the Information;
 - e. inform each such Representative of the restrictions as to confidentiality, use and disclosure of such Confidential Information contained in this Agreement and, to the extent that each such Representative is not already under an appropriate duty of confidentiality, impose upon each such Representative obligations of confidentiality at least equivalent to those set out in this Agreement.

.2. Subject to Article 4 below, each Party hereby undertakes that it shall not, without the prior consent in writing of the other Party, release any press statement or make any other announcement to any third party or make any public statement regarding the existence or content of the discussions contemplated by this Agreement or the identity of the parties to such discussions.

4. LIMITATIONS

.1. The obligations of confidence and non-use herein shall not apply to any part of the Confidential Information if:

- a. It can be evidenced in writing that such Confidential Information was already available to the Receiving Party before its disclosure by the Disclosing Party;
- b. Such Confidential Information was already in the public domain or was made available to the public before the date of disclosure by the Disclosing Party;
- c. Such Confidential Information enters the public domain or becomes available to the public after the date of disclosure by the Disclosing Party not as a consequence of an act or failure attributable to the Receiving Party;
- d. It can be evidenced in writing that such Confidential Information is obtained by the Receiving Party from a third party not bound by any confidentiality obligation to the Disclosing Party;
- e. It can be evidenced in writing that such Confidential Information has been developed, independently and without use of any part of the Confidential Information, by the Receiving Party after the date of disclosure by the Disclosing Party.

.2. Nothing in this Agreement shall prevent the disclosure of Confidential Information by the Receiving Party where such disclosure is required by law or regulation or by an order of a court of competent jurisdiction.

5. ACCESS OF STAFF

Each Party shall ensure that its Staff or the Staff of its Affiliates or the Staff of its Representatives in case of its Representatives being legal persons, who enjoys access to the Confidential Information is bound by a confidentiality agreement or a legally equivalent arrangement or provision which enables the effective implementation of the present Agreement, and that such Staff is notified that the terms and obligations set in the present Agreement apply to any of their engagement with the Confidential Information.

6. ENTRY INTO FORCE, DURATION AND TERMINATION

This Agreement shall enter into force upon the signature of the last Party and shall stay in full force and effect for six (6) years.

7. OWNERSHIP AND INTELLECTUAL PROPERTY

- .1. All Confidential Information, and any proprietary and related right contained therein, including any intellectual property right, shall continue to belong to their respective owners. Nothing contained in this Agreement shall be interpreted to imply any transfer of ownership from one Party to the other or to constitute a licence to use or exploit by one Party of the property of the other.
- .2. Parties will respect each other's proprietary and related rights, including intellectual property rights, which may have been disclosed by one Party to the other in the performance of this Agreement, and shall not misuse or claim any title to any such Confidential Information.
- .3. Articles 1 and 6 shall survive the expiration or termination of this Agreement.

8. WARRANTIES

The Receiving Party agrees that the Disclosing Party makes no representations or warranties, express or implied, including but not limited to, the accuracy, completeness, merchantability, or fitness for a particular purpose of the Confidential Information, as well as non-infringement of third-party rights.

9. RETURN OF INFORMATION

The Receiving Party shall, at request of the Disclosing Party, return all Confidential Information in its, its Affiliates' and its Representatives' possession.

10. APPLICABLE LAW

This Agreement shall be governed by, construed and interpreted in accordance with the laws of the Republic of Cyprus. In case any dispute, controversy or claim arising out of or relating to this Agreement cannot be settled amicably between the Parties, it shall be subject to the jurisdiction of the Courts of the Republic of Cyprus.

11. MISCELLANEOUS PROVISIONS

- .1. Neither Party can assign, waive, revoke or otherwise transfer its respective rights or obligations under this Agreement without prior written consent of the other Party.
- .2. This Agreement does not impose any obligation upon the Parties to disclose any Confidential Information or to continue such disclosure. The extent and frequency of any disclosure is at the discretion of each Disclosing Party.
- .3. If any provision or clause of this Agreement is held unenforceable by a competent court of law, or is precluded by the applicable law, the remaining provisions or clauses shall continue to be in full force and effect to the extent that such invalidity does not fundamentally prevent the Parties from continuing to observe their rights or obligations under this Agreement.

.4. Any violation of any of the provisions of this Agreement will cause the Disclosing Party immediate and irreparable harm, which money damages alone cannot adequately remedy. Therefore, upon any actual or impending violation of this Agreement, the Receiving Party consents to the issuance by a court of competent jurisdiction, of a restraining order, preliminary and/or permanent injunction, restraining or enjoining such violation by the Receiving Party or any entity or person acting in concert with the Receiving Party. The Receiving Party understands that such orders are additional to and do not limit the availability to the Disclosing Party of any other remedy in law or in equity, including the recovery of damages. In any dispute between the parties arising under this Agreement, the prevailing party shall be entitled to the reimbursement of attorney fees and other costs of litigation in addition to all other remedies.

.5. The failure of a Party to enforce any rights resulting from breach by the other Party of any provision of this Agreement will not be deemed as a waiver of any right relating to a subsequent breach of such provision or of any other right hereunder.

.6. In the event of any conflict or discrepancy between the provisions of this Agreement and the provisions of any agreements and/or other binding documents between the Parties, the provisions of this Agreement shall prevail as far as Confidential Information is concerned.

.7. Any communication and correspondence with reference to this Agreement shall be made in writing and addressed to the following addresses:

For CERA:

For XXXX:

Cyprus Energy Regulatory Authority

.....

20 Ayias Paraskevis, 2002 Strovolos,
Nicosia, Cyprus

.....
.....

P.O.Box 24936, 1355 Nicosia, Cyprus

.....

To the attention of
XXXXXXXXXX

To the attention of
XXXXXXXXXX

.8. This is the entire Agreement between the Parties relating to the subject matter hereof and may only be modified by a written amendment signed by the authorised Representatives of each Party.

This Agreement is signed in Nicosia, Cyprus by the duly authorized representatives of the Parties on

Done in three originals in the English language,

For CERA,

For **XXXXXX**,

Seal:

Seal:

Signature:

Signature:

XXXXXXXXXX

XXXXXXXXXX

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.....

Cyprus Energy Regulatory Authority

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<i>Witness 1. Signature</i>		<i>Witness 2. Signature</i>	
<i>Name</i>		<i>Name</i>	
<i>Title</i>		<i>Title</i>	