

# NON-DISCLOSURE AGREEMENT

## Energinet Systemansvar A/S

Tonne Kjærsevej 65  
7000 Fredericia  
Denmark  
Corporate registration no.: 39 31 49 59  
(hereinafter "Energinet")

and

## [NAME OF COMPANY]

[ADDRESS]  
[ADDRESS]  
Corporate registration no.: [\*\*\*]  
(hereinafter "Market Participant")

(Individually referred to as "Party" and jointly as "Parties")

have entered into the following non-disclosure agreement (hereinafter "NDA"):

1. Background and purpose
  - 1.1. The NDA is entered into in relation to Energinet's maturation project for hydrogen infrastructure in Denmark going by the name of Danish Backbone West. To support the maturation project, Energinet are performing a user commitment process, in which 1<sup>st</sup> step is a market study of potential users of the infrastructure. The results of this survey are to be used for political discussions about the scope of the hydrogen infrastructure as well as for the business case Energinet is preparing for the conditional investment decision expected in Q1 2025.
  - 1.2. The published survey is the 1<sup>st</sup> step in the user commitment process in which interested market participants shall submit information for all their projects under development which are expected to use the hydrogen infrastructure. The market survey will account for the maturity of the submitted projects. This requires Energinet to receive information from the market participants which they may consider to be sensitive business information. Having regard to the aforesaid, the Parties enter this agreement to establish the respective rights relating to the information submitted by

the Market Participant for the market survey and Energinet's obligations when receiving said information.

- 1.3. Energinet is the transmission system operator of electricity, natural gas, and hydrogen in Denmark. Energinet's activities relating to hydrogen is regulated by the Danish Act on Gas Supply, which obligates Energinet to keep sensitive business information received as part of its activities as confidential, cf. article 46. Breach of aforementioned obligation is sanctionable, cf. article 49.

## 2. Confidential Information

- 2.1. Confidential information (hereinafter "Confidential Information") means any economic, technical, operational, administrative, corporate, commercial or other information that the Market Participant has submitted to Energinet for the market survey, described in clause 1.2, or in relation thereto, regardless of whether such information being marked as confidential and the form in which such information is manifested.
- 2.2. Analyses, abstracts, collections, examinations, or other material constructed by Energinet containing or in any way reflecting Confidential Information shall also be considered as Confidential Information.
- 2.3. Confidential Information does not include:
  - (i) Information which, at the time of receipt, is subject to public knowledge, publicly accessible or already in Energinet's lawful possession without any confidentiality restrictions,
  - (ii) Information which is received from a third-party who appears to be entitled to lawfully disclose such information,
  - (iii) Information which after the receipt is made publicly known or accessible by other means than through Energinet's breach of confidentiality, or
  - (iv) Information which are the results of the market study in the form of analyses, abstracts, studies and other documents, provided that such results do not disclose project specific information which are not needed for the purpose of the market study, and that such results are presented in a generic manner which do not discriminate between the market participants which has participated in the market study.

## 3. Obligation of confidentiality

- 3.1. The obligation of confidentiality entails that Energinet is obligated to treat Confidential Information confidential ("Confidentiality Obligation"), including to ensure:
  - (i) Non-disclosure of Confidential Information to third parties, unless the disclosure is due to the imperative effect of a law, a court decision or a decision emanating from a competent public Danish or European authority,
  - (ii) That Confidential Information is communicated solely to Energinet's relevant employees, affiliates, advisors, and consultants who have a clear need to know for the market study and provided that such person is subject to non-disclosure restrictions which is not any less stringent than the provisions of this NDA, and
  - (iii) That Confidential Information is not copied or reproduced unless this is necessary for the market study.
- 3.2. Energinet is liable for any breach of this NDA by any party who has received Confidential Information from Energinet.

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- 3.3. If Energinet is legally required to disclose Confidential Information, Energinet is obligated to immediately notify the Market Participant in writing. It shall be noted that third parties may submit a request for access to documents in accordance with the Danish Public Records Act, Public Administration Act and Environmental Information Act. If such a request is submitted Energinet are by law required to disclose the documents relevant for the request. Disclosed documents may contain information that shall be redacted before disclosure if such information is of sensitive nature.
  - 3.4. Energinet is liable for safe storage of Confidential Information in order to prevent that this unintendedly falls into the hands of others. Energinet is obligated to take all necessary precautions to avoid abuse, unauthorized use, disclosure of or access to Confidential Information. In the event of a breach Energinet is obligated to promptly notify the Market Participant in writing and to take all reasonable measures to limit any damaging effects caused by the breach and to help the Market Participant regain control of the Confidential Information and prevent further breach.
  - 3.5. The Confidentiality Obligation shall also apply after the market study has been conducted and its results are final.

#### 4. Use and Return of Confidential Information

- 4.1. The Parties agrees that Confidential Information shall only be used for the fulfillment of the market study, and the results shall only be used for political discussions and the business case for Danish Backbone West, cf. 1.2, and shall not be used by Energinet for any other purpose.
- 4.2. If Energinet has copied or otherwise stored Confidential Information received by the Market Participant, Energinet, to the extent it is technically possible, is obligated to destroy or return the information when they are no longer being used for the market study, cf. 1.2. Energinet has complied with the obligation when all Confidential Information is destroyed or removed.  
Notwithstanding the foregoing, Energinet may retain a copy of the Confidential Information for archival purposes, in order to comply with mandatory legislation, e.g., the Danish Public Records Act and Act on Archival of Records.

#### 5. Liability

- 5.1. Should the Market Participant suffer damages as a result of Energinet's breach of the Confidentiality Obligation, Energinet shall be liable for damages under the general Danish rules of law pertaining to errors and omissions.

#### 6. Injunction

- 6.1. The Parties agree that payment of damages is not necessarily an adequate remedy for breach of this NDA and thereby that the Market Participant therefore may exercise all other required authorities in pursuance of the legislation, including injunction and specific performance in the event of breach or threatened breach of the provisions of this NDA.

#### 7. Dispute resolutions & choice of law

- 7.1. Any dispute arising out of or in connection with the NDA, including disputes regarding the existence or validity of the NDA shall be settled by mediation arranged by the Danish Institute of

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Arbitration in accordance with the rules of mediation adopted by the Danish Institute of Arbitration and in force at the time of request for mediation is submitted.

- 7.2. Mediation shall not affect the right of a party to initiate any other legal steps in relation to the dispute in accordance with the provisions below.
- 7.3. If the mediation proceedings are terminated without a settlement, the dispute shall be subject to legal proceedings at the Court of Copenhagen.
- 7.4. The NDA and any disputes arising out of or in connection thereof shall be governed by Danish law.

## 8. Signature

As agreed by the authorized representatives of the Parties:

On behalf of Energinet Systemansvar A/S:

On behalf of [COMPANY]:

Date /

Date /

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[NAME]

[TITLE]

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[NAME]

[TITLE]