

Terms of Use

1. Definitions

In these Terms of Use:

Competitively Sensitive Information: means any non-public strategic information about DG Developers' commercial policies including (but not limited to) future pricing and output plans, and confidential commercial terms with third parties.

Consortium Facility: means the web-based downloadable register of DG Developers' Data hosted by us (or on our behalf) available at www.westernpower.co.uk/Connections/Generation/Facilitating-sharing-of-information-for-potential.aspx

Data: means any information regarding DG Developer's connection application details including their export capacity requirements which we make available to you through the Consortium Facility and which may be provided in .CSV FILE or EXCEL format.

DG Developer: means a distributed generation developer or their authorised representatives.

Terms of Use: means the terms and conditions of use set out in this document.

us, we, or our: means Western Power Distribution (South West) plc, Western Power Distribution (South Wales) plc, Western Power Distribution (East Midlands) plc and Western Power Distribution (West Midlands) plc (company numbers: 02366894, 02366985, 02366923 and 03600574 respectively) whose registered offices are at Avonbank, Feeder Road, Bristol, BS2 0TB.

you or your: means the party granted access to the Consortium Facility and who is entering into an agreement with us by accepting these Terms of Use.

2. Other Applicable Terms

2.1 These Terms of Use refer to our privacy policy, at www.westernpower.co.uk/Privacy-policy.aspx, which sets out the terms on which we process any personal information we collect from you, or that you provide to us. Please read our privacy policy carefully.

2.2 By using the Consortium Facility you consent to personal data being processed in accordance with our privacy policy. If you provide information about your employees, contractors, or consultants you must also ensure that they consent to our use of their information as described in our privacy policy.

3. The Contract

3.1 These Terms of Use should be read alongside our privacy policy and any variation we make to these documents from time to time and together form a contract between you and us (the "**Contract**"). You will need to accept these Terms of Use each time you access the Consortium Facility or submit Data to the Consortium Facility

3.2 Please read these Terms of Use carefully. In particular we draw your attention to the disclaimer at section 8 and the limitation of our liability at section 11. By using the Consortium Facility, you agree to the Terms of Use. If you do not agree to these Terms of Use, you must stop using the Consortium Facility and any Data made available through it immediately.

- 3.3 You agree to notify us immediately at info@westernpower.co.uk upon discovery or reasonable suspicion of any breach of the Contract by you, your employees (as applicable), or any third party and give all reasonable assistance to us in investigating and resolving such breach.
- 3.4 We may update or amend these Terms of Use from time to time to comply with law or to meet our changing business requirements without notice to you. Any updates or amendments to these Terms of Use will be posted on the Consortium Facility website page. You can also register for email updates, which will include details of any changes to these Terms of Use, at www.westernpower.co.uk/Contact-us/Register-for-website-updates.aspx. By using the Consortium Facility and submitting new Data to the Consortium Facility, you agree to be bound by the terms of these updates and amendments.
- 3.5 If you have any questions, complaints or comments about the Consortium Facility, the Data or these Terms of Use then please contact us by email or telephone using the contact details set out on the Contact Us webpage at <http://www.westernpower.co.uk/Contact-us.aspx>.

4. Access to the Consortium Facility

- 4.1 In consideration of you agreeing to abide by the Contract, we hereby grant to you on these Terms of Use a revocable, limited, non-exclusive, non-transferable, non-assignable, internal, licence for you to access the Consortium Facility and to use the Consortium Facility to obtain Data for the process of contacting the DG Developers listed on the Consortium Facility to discuss the potential for forming a generation connections consortium which may make combined applications for connection schemes to share the cost of connections, reinforcements and connection assets.
- 4.2 We are not responsible for checking that any Data submitted by you or other DG Developers to the Consortium Facility is true and/or accurate in any respect.
- 4.3 We accept no liability and are not responsible for unilateral decisions, discussions or negotiations facilitated by access to the Data and Consortium Facility, which breach any applicable laws including competition law. This includes (but is not limited to):
- (a) exchange of Competitively Sensitive Information with other DG Developers;
 - (b) the imposition of restrictions on DG Developers from making combined applications to share the cost of connections with other parties; and
 - (c) unfair refusal to deal with other DG Developers.
- 4.4 You confirm that:
- (a) any information and details provided by you to us are true and accurate in all respects;
 - (b) you will at all times comply with these Terms of Use; and
 - (c) You will ensure that all persons who access the Consortium Facility through your internet connection are aware of these Terms of Use and that they comply with them.
- 4.5 You will not:
- (a) upload or submit any Data to the Consortium Facility which is untrue, defamatory, obscene or abusive or otherwise objectionable or in breach of any applicable laws or rights of third parties.

- (b) use the Consortium Facility or Data for any unlawful purpose or in a way which infringes the rights of anyone else or restricts or inhibits anyone else's use of the Consortium Facility;
- (c) use the Consortium Facility or Data in any way that interrupts, corrupts, damages, impairs or renders the Consortium Facility less efficient;
- (d) impersonate any other person or entity, misrepresent your connection with a person or entity, or provide false or otherwise misleading information;
- (e) transfer files that contain viruses, trojans or other harmful programs or introduce any such harmful programs into the Consortium Facility;
- (f) authorise, encourage or assist any other person to, copy, disclose, distribute, modify, reverse-engineer, decompile, disassemble, alter or otherwise tamper with any software (including source code), databases or other technology that forms part of the Consortium Facility; or
- (g) penetrate or attempt to penetrate the Consortium Facility's security measures.

4.6 You are responsible for making all arrangements necessary for you to have access to the Consortium Facility including configuring your information technology, computer programmes and platform and using your own virus protection software.

5. Use of the Data

5.1 In consideration of you agreeing to abide by the terms of the Contract, we hereby grant to you on these Terms of Use a revocable, limited, non-exclusive, non-transferable, non-assignable, internal, licence for you to obtain Data to contact the DG Developers listed on the Consortium Facility to discuss the potential opportunities of forming a generational connections consortium which may make combined applications for connection schemes to share the cost of connections, reinforcements and connection assets.

5.2 You will not:

- (a) use or otherwise deal with the content of the Consortium Facility, including the Data, except as permitted by these Terms of Use;
- (b) use or otherwise deal with the Data and Consortium Facility for any purpose which could breach any applicable laws including competition law. This includes, but is not limited to sharing of Competitively Sensitive Information, the conclusion of anti-competitive agreements and the abuse of dominance;
- (c) share or make any part of the Data or the Consortium Facility available to any third party without our prior written consent;
- (d) re-distribute, sub-license, rent, publish, sell, assign, lease, or otherwise transfer, temporarily or permanently, any of your rights or obligations under these Terms of Use; or
- (e) delete, obscure or in any manner alter any warning, instruction, trade mark, disclaimer or link that appears in the Data or Consortium Facility.

5.3 The Consortium Facility may be updated from time to time. It is your responsibility to regularly check the Consortium Facility and ensure that any Data submitted by you to the Consortium Facility is up to date. We will not update or amend the Data submitted by you to the

Consortium Facility unless we receive notice from you (via the contact details provided on the Consortium Facility section of our website) that any Data submitted is incorrect or invalid.

- 5.4 Any Data will automatically expire after 180 calendar days and will be removed from the Consortium Facility. You will be entitled to re-submit any deleted Data to the Consortium Facility after its deletion.
- 5.5 We are not responsible for any use of the Data or Consortium Facility by you which is in breach of any applicable laws including competition law.

6. Intellectual Property

- 6.1 Except as expressly stated in these Terms of Use, the Contract does not grant to you any ownership of or rights to any patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Consortium Facility or Data or any related documentation.
- 6.2 You will immediately bring to our attention any improper or unlawful use or infringement of any rights in respect of the Data or Consortium Facility which comes to your attention and if requested, assist us in taking all reasonable steps to defend any rights we may have.

7. Disclaimer

- 7.1 The Consortium Facility and Data is provided on an 'AS-IS' basis without any guarantee that access to the Consortium Facility will be available at any particular time or without delay or interruption or that the Data will be complete, accurate, up-to-date or fault free.
- 7.2 Any use or reliance on the Consortium Facility and/or the Data is entirely at your own risk and we exclude all conditions, warranties, representations or other terms which may apply to the Consortium Facility or the Data, whether express or implied, to the fullest extent permitted by law.
- 7.3 You are responsible for ensuring that your use of the Data and Consortium Facility in compliance with these Terms of Use is suitable for your own requirements and compatible with your systems. We accept no liability for any viruses, other malicious programs and/or harmful code which may exist in the Data or the Consortium Facility or for any claims by any third party that the Data or the Consortium Facility infringes their rights.

8. Termination

- 8.1 We may terminate the Contract, or suspend, restrict or terminate your right to access the Consortium Facility or use the Data, for any reason immediately upon written notice at any time.
- 8.2 We may remove the Consortium Facility and the Data from our website for any reason and at any time without notice.
- 8.3 We reserve the right (without limiting our rights to seek other remedies) to remove offending material placed on the Consortium Facility that we consider to constitute a misuse of the Consortium Facility or which is otherwise harmful to other users of the Consortium Facility.
- 8.4 The Contract, and any of your rights granted under it, will automatically terminate with immediate effect after the happening of any of the following events:
 - (a) you commit a material breach of any of the terms and conditions set out in this Agreement;

- (b) you pass a resolution for your winding-up or a court of competent jurisdiction makes an order for your winding-up or dissolution;
- (c) any steps are taken for the making of an administration order or the appointment of an administrator or notice is given of an intention to appoint an administrator in relation to you or any steps are taken for the appointment of a receiver or administrative receiver, or an encumbrancer takes possession of or sells any of your assets;
- (d) you make an arrangement or composition with creditors generally or you make an application to a court of competent jurisdiction for protection from your creditors;
- (e) you cease to carry on business at any time for 30 consecutive days; or
- (f) you suspend, or threaten to suspend, payment of your debts or you are unable to pay your debts as they fall due or you admit inability to pay your debts or (being a company) you are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986.

8.5 On termination of the Contract for any reason:

- (a) all licences granted under the Contract will immediately terminate without notice;
- (b) you will cease any further access to the Consortium Facility or use of the Data;
- (c) you will take all reasonable steps to delete the Data from your electronic media, including such systems and data storage services provided by third parties; and
- (d) our accrued rights and remedies as at termination will not be affected or prejudiced; and

8.6 The following provisions of the Terms of Use will continue in force after the termination of the Contract: sections 1, 6, 7, 8, 9, 10 and 11 (inclusive).

9. Indemnity

You will defend, indemnify and hold us harmless against all claims, demands, proceedings, damages, losses, costs (including reasonable legal costs), expenses, fines and charges arising out of your use of the Consortium Facility or the Data or arising in connection with the Contract.

10. Limitation of our liability

10.1 Nothing in these Terms of Use excludes or limits our liability for death or personal injury arising from our negligence, or our fraud or fraudulent misrepresentation, or any other liability that cannot be excluded or limited by English law.

10.2 Subject to section 10.1, we will not be liable to you for any loss or damage, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with:

- (a) use of, or inability to use, the Data or the Consortium Facility; or
- (b) use of, or reliance on, the Data or any content displayed on the Consortium Facility.

10.3 We will have no liability to you for any:

- (a) loss of profit (whether direct, indirect or consequential);

- (b) loss of revenue, loss of production or loss of business (in each case whether direct, indirect or consequential);
- (c) loss of goodwill, loss of reputation or loss of opportunity (in each case whether direct, indirect or consequential);
- (d) loss of anticipated savings or loss of margin (in each case whether direct, indirect or consequential);
- (e) of your liabilities to third parties (whether direct, indirect or consequential);
- (f) indirect, consequential or special loss;
- (g) wasted management, operational or other time (whether direct, indirect or consequential), or
- (h) fines or any associated costs arising from any regulatory investigation or action by the Competition and Markets Authority or any other regulatory body as a result any use by you of the Data or Consortium Facility which is prohibited by competition law.
- (i) Third party actions for damages (or any other remedy) arising as a result of any use by you of the Data or Consortium Facility which is prohibited by competition law.

subject always to section 10.1.

10.4 Save as provided in section 10.1 our total liability to you under the Contract will not exceed £1,000.

10.5 You acknowledge and agree that the allocation of risk in this section 10 is a fair and equitable position and the extent of our responsibility to you should be determined by reference to the fact that: (i) the Consortium Facility and the Data are provided to you free of charge; and (ii) you are responsible for any action you do or do not take as a result of your use of the Consortium Facility and the Data.

11. General Provisions

11.1 We may wish to transfer our rights or obligations or sub-contract our obligations under the Contract to another legal entity and you agree that we may do so.

11.2 The Contract is personal to you and you may not transfer your rights or obligations under it to anyone else.

11.3 If you breach these Terms of Use and we take no action against you, we will still be entitled to use our rights and remedies in any other situation where you breach these Terms of Use.

11.4 If any part of these Terms of Use is disallowed or found to be ineffective by any court or regulator, the other provisions will continue to apply.

11.5 The Contract is not intended to give rights to anyone except you and us. This does not affect our right to transfer the Contract under section 11.1 above.

11.6 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

11.7 The Contract, its subject matter and its formation (and any non-contractual disputes or claims) are governed by the laws of England Wales and you agree to submit to the exclusive

jurisdiction of the courts of England and Wales in respect of any disputes arising out of or in relation to it.