

Confidentiality Agreement

- hereinafter referred to as “Agreement” -

between

Company name, address

- hereinafter referred to as “**Counterparty**” or “**Party**” -

and

Trianel Energieprojekte GmbH & Co. KG
Krefelder Str. 203 in 52070 Aachen, Germany

- hereinafter referred to as “**TEP**” or “**Party**” -

- Counterparty and TEP hereinafter collectively referred to as “**Parties**” -.

Preamble

TEP (contracting authority) has launched a tender process for a framework agreement for delivery and service of battery storage projects in Germany for Trianel Energieprojekte GmbH & Co. KG as well as other affiliated companies. The tender documents issued during the tender phase contain confidential information. The tender documents will therefore only be issued with invitation to tender to those tenderers who have submitted their application to participate together with the following NDA. TEP and/or affiliates of TEP and Counterparty intend to enter into a framework agreement (hereinafter referred to as "Project").

Prior to the decision to enter into a mutual commercial partnership or with respect to the Project, the Parties will exchange confidential information.

In order to protect the respective interests of the Parties, both Parties agree:

I. Confidentiality

- 1.1 The Parties agree to treat as strictly confidential all information (hereinafter referred to as "**Confidential Information**") which they obtain from the other Party directly or indirectly or which are made available to them in connection with a Project. This shall apply to any information, irrespective of its nature and form, including but not limited to economical and/or technical information, specifications, documents, drawings, information relating to marketing, customers, pricing, finance, distribution and/or other types of business information, even if such information has not been explicitly marked as Confidential Information, including this Agreement and the fact that the Parties will have general or Project-related discussions. Furthermore, this shall apply to all agreements entered into by the Parties with third parties which are made available by one Party to the other.
- 1.2 Confidential treatment shall mean that each Party shall treat all Confidential Information which it obtains from the other Party with the same degree of care as it uses to protect its own trade and company secrets. In particular, the Parties agree not to disclose the Confidential Information obtained from the other Party to third parties and to take reasonable precautions in order to prevent a breach of confidentiality. Third party in this sense are not the decision-making committee (supervisory board and shareholders) of TEP. Furthermore, the Parties shall use the Confidential Information obtained solely for the intended purposes or in connection with the Project and not exploit the Confidential Information for the purpose of competition or commercially for their own purposes or for that of third parties unless such exploitation is consistent with the purpose of the cooperation or that of the Project. Any additional use or disclosure of Confidential Information to third parties shall be subject to the prior written approval of the other Party.
- 1.3 The Parties agree not to make copies, duplicates or any other compilations of the obtained Confidential Information unless this is necessary for the cooperation or the realisation of the Project.
- 1.4 Furthermore, the Parties agree to only disclose the obtained Confidential Information to their own employees or those of affiliated companies within the meaning of §§ 15 et seq. Aktiengesetz (AktG) to the extent absolutely necessary with regard to the cooperation or the realisation of the planned Project. Said employees as well as the employees of affiliated companies shall be bound explicitly by this Agreement unless they are not otherwise obliged to observe confidentiality.
- 1.5 A disclosure of Confidential Information to external advisors in connection with the cooperation or the Project shall only be permitted if said advisors have committed in writing to treat such information as confidential within the meaning of this Agreement or if they are already obliged to observe confidentiality due to their profession.
- 1.6 The obligation to observe confidentiality shall not apply to such information in respect of which the providing Party has explicitly stated in writing that such information is not confidential and/or in respect of such information
 - which is at the time of its disclosure already publicly available or becomes publicly available thereafter and through no fault of the receiving Party;
 - which was already known to the receiving Party prior to its disclosure or which the receiving Party has obtained legally from third parties without having been obliged by them to treat it confidentially;

- which is required by law to be disclosed by the receiving Party to third parties. In this case, the receiving Party shall notify the other Party without undue delay and agree to it on further proceedings; and/or
- which has been or will be developed by the receiving Party independently of its disclosure.

The burden of proof as to the applicability of any of the above exceptions shall rest with the receiving Party.

- 1.7 If requested to by TEP or when the Project ends, the receiving Party shall return without undue delay all written or otherwise recorded Confidential Information obtained from the disclosing Party (including any reproductions and/or copies thereof) or - upon request of the disclosing Party - destroy the Confidential Information and confirm such destruction in writing. The receiving Party is entitled to retain a full set of such Confidential Information in order to fulfil its statutory or regulatory duty to preserve records. Copies of computer-based recordings and files which have been created in the context of the automatic backup are exempted furthermore unless a deletion is not unreasonable. The receiving Party has to ensure that the Confidential Information will be deleted without undue delay upon expiration of the retention period.

II. Proprietary rights and rights of use

The disclosure of Confidential Information from one Party to the other does not imply any transfer of proprietary rights and rights of use unless otherwise explicitly agreed by the Parties. This Agreement does not entitle the Parties to act in any way on behalf of the other Party with respect to third parties.

III. Data protection

If a Party also obtains personal data (*personenbezogene Daten*) from the other Party, the receiving Party shall be obliged to observe and comply with the applicable data protection regulations, particularly the EU General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (Bundesdatenschutzgesetz - BDSG).

IV. Non-solicitation agreement

Regardless of the outcome of the discussions regarding the project, the parties shall refrain from any attempts to solicit the employees involved in the project for a period of twelve (12) months from the signing of this confidentiality agreement. For clarification, it is pointed out that sentence 1 does not include appointments within the framework of application procedures or on the own initiative of these employees.

V. Term

This Agreement becomes effective upon signing by both Parties. Unless no superseding agreement is concluded, the obligation to observe confidentiality shall continue for a period of three (3) years from the date of signature. The obligation to observe confidentiality in respect of personal data (*personenbezogene Daten*) which is subject to data protection remains in force without any time limit.

VI. Liability

The Parties agree to treat all Confidential Information which they obtain from the other Party with the same degree of care as they use to protect their own Confidential Information. In the event of a culpable breach of its confidentiality obligation or any other obligation under this Agreement, the receiving Party shall indemnify the other Party for any loss or damage resulting therefrom.

VII. Severability clause

If any provision of this Agreement is or becomes entirely or partially invalid or unenforceable, then the remainder of this Agreement shall remain in full force and effect.

VIII. Final provisions

- 8.1 Supplementary Agreements to the provisions of this Agreement have not been made.
- 8.2 Each Party shall notify the other Party without undue delay upon knowledge of any breach of this Agreement.
- 8.2 Verbal ancillary agreements and subsequent amendments, including this provision, are only valid if they are confirmed in writing by the Parties. This sentence takes no effect on individual single-use agreements or amendments.
- 8.3 This Agreement as well as any legal relationship in the context of the transfer of Confidential Information shall be governed and construed in accordance with the laws of the Federal Republic of Germany. The place of jurisdiction shall be Aachen.

Klicken um Text einzugeben.

Place and date

Place and Date

Klicken um Text einzugeben.

Trianel Energieprojekte
GmbH & Co. KG

Company

Klicken um Text einzugeben.

Name in block letters / Position

Name in block letters / Postition

Klicken um Text einzugeben.

Trianel Energieprojekte
GmbH & Co. KG

Company