



ENERDATA DATA PROVIDER AGREEMENT

Data Submission, Usage, and Confidentiality Agreement

CCRO Committee of Chief Risk Officers

Version 1.0

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Effective on: February 27, 2003

THE COMMITTEE OF CHIEF RISK OFFICERS ("CCRO") CONSENTS TO THE USE AND PHOTOCOPYING OF THIS DOCUMENTATION FOR THE PREPARATION OF AGREEMENTS WITH RESPECT TO OTC PRODUCTS AND GRANTS PERMISSION FOR REPRODUCTION BY DOWNLOADING FROM THE CCRO'S INTERNET WEBSITE AND PRINTING ELECTRONIC COPIES OF THE DOCUMENT. THE CCRO DOES NOT CONSENT TO THE REPRODUCTION OF ANY OF ITS DOCUMENTS FOR PURPOSES OF PUBLIC DISTRIBUTION OR SALE. ATTRIBUTION TO THE CCRO, COPYRIGHT OWNER, IS REQUIRED.

DISCLAIMER

The CCRO, any member entity of the CCRO, and/or any member of the drafting committee of this Data Submission, Usage, and Confidentiality Agreement (the "DSUCA") individually or as representatives of their respective companies, make no representations or warranties, express or implied, concerning the DSUCA, including, without limitation, with respect to the accuracy, completeness, legal effect or usefulness of the information, provisions or procedures contained therein and assume no responsibility or liability with respect to the use of, or for damages resulting from the use of, information, provisions or procedures contained in the DSUCA.

All users are urged to consult their own legal counsel in connection with the preparation, negotiation, legal effect and/or use of the DSUCA or any provisions included therein.

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**DATA SUBMISSION, USAGE AND CONFIDENTIALITY AGREEMENT
COVER SHEET**

This Data Submission, Usage and Confidentiality Agreement, together with, and as amended by, this Cover Sheet and any schedules, exhibits and supplements hereto or thereto, collectively the "Agreement," is made and entered as of: _____ ("Effective Date"). The Parties to this Agreement are the following:

Name: _____
("Party A" or "Data Provider")*
Location of Chief Executive Office: _____
State of Incorporation, Organization, or Formation: _____

Name: _____
("Enerdata" or "Index Publisher")
Location of Chief Executive Office: _____
State of Incorporation, Organization, or Formation: _____

Notices shall be made in accordance with the following:

Party A:

All Notices:

Name: _____
Street: _____
City: _____ PC: _____
Attn: _____
Phone: _____
Facsimile: _____
Email: _____

Enerdata:

All Notices:

Name: Canadian Enerdata Ltd.
Street: 86 Ringwood Dr., Suite 201
City/State: Stouffville, ON PC: L4A 1C3
Attn: Richard Zarzeczny, Pres.
Phone: 905-642-8167
Facsimile: 905-642-5287
Email: richardz@enerdata.com

The Parties hereby acknowledge and agree that the General Terms and Conditions are incorporated herein and to the following provisions as provided for in the General Terms and Conditions:

Paragraph 1 (If not checked, inapplicable)

- Data:**
- Transaction Date
 - Location
 - Price
 - Volume
 - Buy/Sell Indicator
 - Counterparty Name
 - Trading Platform and/or Clearinghouse Data:
 - Broker
 - Any other Transaction information that Parties may designate – (specify):
 - _____

Paragraph 5

Reporting Interval: For [] products, Reporting the reporting interval shall be [].

For [] products, the reporting interval shall be [].

Submission Deadline: For [] products, the submission deadline shall be [].

For [] products, the submission deadline shall be [].

Data Review: Data Review shall be for a period of [] Business Days within Party A’s submission of Data to Enerdata.

Paragraph 6

Index Challenge: Index Challenge shall be for a period of [] Business Days within Enerdata’s publication of the applicable index.

Materiality Band: *[Shall be provided in Exhibit B].*

Paragraph 7

Party A’s Designated Representatives: [•]

[•]

Enerdata’s Designated Representatives: [•]

[•]

Paragraph 11

Retention Period: For the Receiving Party the Retention Period shall be for a period of [] years from the date it received such Confidential Information from the Disclosing Party, and for the Disclosing Party the Retention Period shall be for a period of [] years from the date it disclosed such Confidential Information to the Receiving Party; however, notwithstanding the foregoing, the Retention Period must be sufficient for the Parties to satisfy their audit responsibilities as set forth in Paragraph 11.

Other Changes to the Agreement:

Specify, if any: _____

*This Agreement assumes that if the Data Provider submits Data to the Index Publisher the submitted Data will only represent transactions executed by the Data Provider. If the Data Provider desires to submit Data on behalf other related entities such as affiliates, the Parties should acknowledge and agree that submissions can be made on behalf of related entities and should modify this Agreement accordingly.

IN WITNESS WHEREOF, the Parties below have caused this Agreement to be duly executed by their authorized representatives as of the Effective Date.

PARTY A

PARTY B

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

GENERAL TERMS AND CONDITIONS

WHEREAS, Party A may from time to time disclose to Enerdata certain Data for consideration by Enerdata in its construction of a published energy price index; and

WHEREAS, Enerdata may disclose to Party A its index methodology; and

WHEREAS, the Parties seek to realize the mutual benefits that can be obtained through the development and publishing of accurate and representative energy price indices; and

WHEREAS, the Parties desire to agree on procedures by which (i) Data can be submitted by the Data Provider to the Index Publisher; (ii) such Data can be subject to inquiries from the Index Publisher prior to the construction of any published energy price index; (iii) a published energy price index and its methodology can be subject to inquiries from the Data Provider and, if necessary, corrected or changed by the Index Publisher; and (iv) submitted Data may be used to evaluate the resulting index for the purposes of improving the index; and

WHEREAS, the Parties desire to restrict the use, and protect and safeguard the confidentiality, of such Data.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

"Business Day" means a 24-hour period ending at 5:00 p.m. EPT on a weekday on which the Federal Reserve Bank of New York is open for business.

"Confidential Information" has the meaning set forth in Paragraph 2 of this Agreement.

"Data" has the meaning set forth in the COVER SHEET.

"Data Review" has the meaning set forth in the COVER SHEET.

"Designated Representative(s)" has the meaning set forth in the COVER SHEET.

"Disclosing Party" has the meaning set forth in Paragraph 2 of this Agreement.

"EPT" means Eastern Prevailing Time.

"Index" has the meaning set forth in Paragraph 6 of this Agreement.

"Index Review" has the meaning set forth in the COVER SHEET.

"Materiality Band" has the meaning set forth in the COVER SHEET.

"Person," for purposes of this Agreement, shall be broadly interpreted to include, without limitation, any corporation, company, partnership, other entity or individual.

"Receiving Party" has the meaning set forth in Paragraph 2 of this Agreement.

"Reporting Interval" has the meaning set forth in the COVER SHEET.

"Representatives" means, with respect to either Party hereto, such Party's officers, directors, employees, agents and advisors (including, without limitation, financial advisors, legal counsel and accountants) of such Party.

"Submission Deadline" has the meaning set forth in the COVER SHEET.

"Termination" has the meaning set forth in Paragraph 19 of the Agreement.

2. Scope of Agreement; Definition of "Confidential Information".

This Agreement extends to all Data and all other information (whether oral, written, electronic or otherwise, including, without limitation, software, energy pricing information, financial information or other business and/or technical information) provided by a Party (the "Disclosing Party") or its Representatives (as defined below), to the other Party (the "Receiving Party") or its Representatives that is provided for, or is used for, any purpose related to an index or to an index methodology (collectively, the "Confidential Information"). The term "Confidential Information" does not include:

- (i) information which is now in the public domain, or which later enters the public domain, through no action by the Receiving Party or its Representatives in violation of this Agreement; or
- (ii) information which is lawfully received from any source other than the Disclosing Party or which the Receiving Party can demonstrate was already in its possession at the time of its disclosure hereunder, except that in either case such information must not have been acquired, directly or indirectly, from the Disclosing Party or any other entity on a confidential basis; or
- (iii) information which is independently developed by the Receiving Party without reference to, or the use of, any Confidential Information; or
- (iv) information approved for disclosure or release by the Receiving Party by written authorization from the Disclosing Party.

3. Non-Disclosure.

For two (2) years from its receipt of the relevant Confidential Information, the Receiving Party and its Representatives, regardless of whether Representatives continue to be employed by the Receiving Party during the relevant period, shall keep that Confidential Information confidential. This Agreement shall survive the return or destruction of any Confidential Information.

4. Submission of Index Methodology.

Upon the Effective Date of this Agreement, the Index Publisher shall provide the index methodology it uses in the construction of any Index (as defined below) to the Data Provider. Any changes in such methodology must be communicated in writing to the Data Provider at least one (1) Business Day before its implementation by the Index Publisher.

5. Submission of Data; Data Review.

(a) The Disclosing Party shall review and verify Data for each Reporting Interval through a department that is (i) independent of the front office and (ii) not the commercial organization, which is responsible for reporting a transaction for verification and submission. If the Disclosing Party is submitting Data on behalf of any affiliates, the Parties should agree in advance whether the Disclosing Party must separately identify the Data that is submitted on behalf of each such affiliate. The Disclosing Party shall submit such Data in the format described in EXHIBIT A attached hereto to the Receiving Party either electronically or via facsimile by the Submission Deadline. If no transactions are executed during the Reporting Interval, the Disclosing Party shall communicate same to the Receiving Party.

(b) During Data Review, (i) both the Disclosing Party and the Receiving Party shall review the Data submitted by the Disclosing Party for errors and/or omissions; (ii) the Disclosing Party shall make commercially reasonable efforts to be available to the Receiving Party to review and respond to any inquiries or alleged errors with respect to the submitted Data identified by the Receiving Party; and (iii) the Disclosing Party shall notify the Receiving Party of any errors that it independently discovers in submitted Data and resubmit corrected Data.

6. Index Publication; Index Challenge.

(a) The Receiving Party shall construct and publish its energy price index (“Index”) according to the procedures and processes that are set forth in EXHIBIT B attached hereto.

(b) Within [] Business Days following the publication of an Index by the Receiving Party for which the Disclosing Party has submitted Data, the Disclosing Party may question the accuracy and reliability of such Index if the published Index value is outside the Materiality Band, according to its calculations using the Index methodology, by notifying the Receiving Party in reasonable detail of possible errors. The Receiving Party shall make commercially reasonable efforts to be available to the Disclosing Party, to review and to respond to any questions or alleged errors identified by the Disclosing Party, with respect to the Index. The Receiving Party shall make any appropriate corrections to the Index and republish it within [] Business Day(s) thereafter if it determines that its errors exceed the Materiality Band.

7. Designated Representatives.

The Disclosing Party shall submit Data to the Receiving Party through its Designated Representative(s) and all communications between the Disclosing Party and the Receiving Party with respect to such Data and the publication of the Index for which such Data has been submitted shall be between their Designated Representatives.

8. Use of Confidential Information.

(a) The Receiving Party (a) shall use the Confidential Information solely for the purposes of (i) aggregation and construction of an Index, which the Receiving Party may use for commercial purposes, provided that the Confidential Information is not specifically identifiable to the Disclosing Party; (ii) evaluating such Index for errors and/or omissions; and/or (iii) conducting analyses to improve its Index methodology and (b) shall not use the Confidential Information for any purpose other than those identified in (i), (ii) and (iii) including, but not limited to, marketing, advertising, and the research and development of articles or company analyses, without the prior written permission of the Disclosing Party.

(b) The Receiving Party shall disclose Confidential Information only to its Representatives who agree in writing to be bound by the terms of this Agreement and (i) are actively and directly involved in the Receiving Party's construction of an Index, (ii) who otherwise need to know the Confidential Information for the purpose of evaluating and/or analyzing its Index or (iii) who have been given the prior written permission of the Disclosing Party to use the Confidential Information for some other limited purpose. The Receiving Party shall be responsible for any breach of this Agreement by the Receiving Party or its Representatives.

9. Ownership, Return or Destruction of Confidential Information.

The Disclosing Party shall retain ownership of the Data or other Confidential Information submitted to the Receiving Party and the Receiving Party shall have no right, title or interest of any kind to or in any data or other Confidential Information or any intellectual property of the Disclosing Party contained in or relating thereto. The Receiving Party agrees to make no claim to any such right, title or interest, however denominated. At any time upon the written request of the Disclosing Party, the Receiving Party, at its option, shall (i) promptly return all Confidential Information in the possession of the Receiving Party to the Disclosing Party without retaining any copies, summaries or extracts thereof, or (ii) promptly destroy all Confidential Information in the possession of the Receiving Party, without retaining any copies, summaries or extracts thereof and certify in writing by a duly authorized officer of the Receiving Party that the Confidential Information has been destroyed.

10. Required Disclosures.

As soon as the Receiving Party receives notice it is, or reasonably believes that it may or will be legally compelled to disclose Confidential Information (whether by interrogatories, subpoenas, civil investigative demands or otherwise) or is requested to disclose Confidential

Information by a governmental authority or agency (including without limitation, the Commodity Futures Trading Commission, the Federal Energy Regulatory Commission, Securities and Exchange Commission, and any local public service commission), the Receiving Party shall notify the Disclosing Party and keep the Disclosing Party informed of any material developments with respect to that compulsion or request. When time is of the essence, the Receiving Party may provide notice or updates orally, but must promptly follow these communications with written summaries.

The Receiving Party shall cooperate with the Disclosing Party to enable the Disclosing Party to obtain a protective order or other similar relief or to narrow the scope of such legal compulsion or request. If, in the opinion of its legal counsel and in the absence of a protective order or waiver, the Receiving Party is legally compelled to disclose Confidential Information, the Receiving Party will disclose only so much of the Confidential Information as, in the opinion of its legal counsel, is legally required. In any such event, the Receiving Party agrees to use good faith efforts to ensure that all Confidential Information that is so disclosed will be accorded confidential treatment.

11. Audit.

(a) Each Party shall maintain copies of all Confidential Information disclosed to the other Party for the Retention Period, for use, among other things, in conducting an audit (as described below).

(b) At least annually, the Data Provider shall perform an audit, using an independent (internal or external) audit group, to review the Data gathering and submission process, and to verify the proper implementation of and adherence to the Data gathering and submission process that the Data Provider shall establish in advance of the audit. Such audit shall be conducted at the expense of the Data Provider by a qualified individual, i.e., Certified Public Accountant or Certified Internal Auditor. The Data Provider shall inform the Index Publisher, upon request, only as to whether it "passed" or "failed" its most recent audit.

(c) At least annually, the Index Publisher shall perform an audit, using an independent (internal or external) audit group, to determine: (i) that the Data is properly collected and stored in compliance with the requirements of this Agreement; (ii) that the procedures and processes that are set forth in EXHIBIT B attached hereto are the same as that used to calculate and publish the actual index; (iii) that the procedures and processes that are set forth in EXHIBIT B attached hereto are "robust," as defined in advance of the audit by the Receiving Party; and (iv) that the Index Publisher has conducted tests to verify the process used to derive the Index is accurate, objective, and reliable. Such audit shall be conducted at the expense of the Index Publisher by a qualified individual, i.e., Certified Public Accountant or Certified Internal Auditor. The Index Publisher shall inform the Data Provider, upon request, only as to whether it "passed" or "failed" its most recent audit.

12. Compliance with Securities Laws.

The Receiving Party (i) acknowledges that it is aware of the United States securities laws, including, but not limited to, the Securities Exchange Act of 1934, as amended, and the rules and

regulations promulgated thereunder and (ii) agrees not to use any Confidential Information in contravention of any such laws, rules and regulations.

13. Representations, Warranties and Covenants.

(a) Basic Representations. The Disclosing Party represents and warrants to the Receiving Party that, as of the Effective Date and upon each disclosure of Confidential Information:

- (i) It has the corporate, governmental and/or other legal capacity, authority and power to execute, deliver, enter into and perform this Agreement and has taken all necessary action to authorize such execution, delivery and performance;
- (ii) It is duly qualified to disclose Confidential Information; and
- (iii) It has reviewed and verified the Data for each Reporting Interval through a department that is (A) independent of the front office and (B) not the commercial organization, which is responsible for reporting a transaction for verification and submission.

(b) Limitation of Representations and Warranties.

- (i) Notwithstanding the foregoing, the Receiving Party acknowledges that neither the Disclosing Party nor any of its Representatives makes any express or implied representation or warranty as to the accuracy or completeness of any Confidential Information, and the Receiving Party agrees that neither the Disclosing Party nor any of its Representatives shall have any liability to it or any of its Representatives relating to or arising from any Confidential Information or its use, including, but not limited to, the aggregation of such Confidential Information by the Receiving Party and use of the resulting product in the construction of any inaccurate Index; and
- (ii) ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE ARE DISCLAIMED.

14. Remedies.

Without prejudice to the rights and remedies otherwise available to either Party, in the event of any breach or threatened breach hereof, the Disclosing Party shall be entitled to injunctive and other equitable relief, and the Receiving Party shall not plead in defense thereto that there would be an adequate remedy at law, and the Receiving Party waives any applicable right or requirement that a bond be posted by the Disclosing Party.

Disclosing Party and Receiving Party shall each indemnify and hold the other harmless

from and against loss, liability, injury, damage, cost, or expense suffered or sustained by the other by reason of said Party's (including that Party's representatives) failure to perform under the terms or breach of this Agreement. Such indemnity shall include, but not be limited to, any judgment, award, settlement, reasonable attorney's fees, reasonable cost of enforcing this indemnity, and other costs or expenses incurred in connection with the defense of any claim by third parties, either actual or threatened.

15. No Obligation to Proceed; Authority.

This Agreement does not obligate or commit either Party to provide Confidential Information to the other Party or consider such Confidential Information in the construction of an Index. Each Party, as well as the individuals signing this Agreement, represent and warrant that, it, he, or she is authorized to enter into this Agreement and the authority to bind its respective Party, as the case may be.

16. Entire Agreement; Counterparts; Amendment.

This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes any previous agreements, whether written or oral, pertaining to such subject matter. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original for all purposes and all of which will constitute a single instrument. Facsimile signatures shall be deemed original and binding signatures. This Agreement may only be amended by a written document signed by both Parties.

17. No Waiver.

No waiver of any provision of this Agreement, or of a breach hereof, shall be effective unless it is in writing, signed by the Party waiving the provision or the breach hereof. No waiver of a breach of this Agreement (whether express or implied) shall constitute a waiver of a subsequent breach hereof.

18. Interpretation; Headings; Severability; Governing Law.

Both Parties have reviewed, and have had an opportunity for comment upon, this Agreement. Any rule or principle of contractual construction that would otherwise require any aspect of this Agreement to be interpreted against the Party primarily responsible for its drafting shall not be employed in the interpretation hereof. The headings used in this Agreement are for convenience only and shall have no significance in the interpretation of this Agreement. All provisions of this Agreement are severable, and the unenforceability or invalidity of any of the provisions of this Agreement shall not affect the validity or enforceability of the remaining provisions of this Agreement. This Agreement shall be the governing agreement between the Parties and shall be governed by, construed, and enforced in accordance with the laws of the State of New York, without regard to principles of conflicts of law. Each Party agrees to submit to the nonexclusive jurisdiction of the state and federal district courts of New York located in the borough of Manhattan in New York City and waives any objection to the laying of venue in New York City. Each Party further waives any right to trial by jury in any such action.

19. Term.

The term of this Agreement shall commence on the Effective Date and shall remain in effect until terminated by either Party upon three (3) Business Days' prior notice (the "Termination"); provided, however, that the Termination shall not affect or excuse the performance of either Party under any provision of this Agreement, including their obligations under Paragraph 3 of this Agreement. This Agreement shall not merge with, or be terminated or superseded by any future agreement between the Parties, unless any such written agreement specifically so provides.

[The rest of this page is intentionally left blank]

APPENDIX A

FORMAT FOR THE SUBMISSION OF DATA

(To be agreed upon by the Data Provider and the Index Publisher)

APPENDIX B

INDEX METHODOLOGY DOCUMENT.

(To be provided by the Index Publisher)

APPENDIX C

DATA PROVIDER COUNTERPARTY WAIVER

**For Provision of Counterparty Natural Gas Transaction Data to Third Party
Index Publisher**

Whereas Counterparties (see Schedule A) currently engage, or may engage, with each other in North American natural gas purchase and sales transactions (Transactions) directly and through Exchanges and Brokers under specified terms and conditions as per their respective Natural Gas Transaction Contracts ('Contract X'), and,

Whereas certain Confidentiality Clause(s) contained in Contract X prohibit or restrict the release of the details of such Transactions to any third party, and,

Whereas, Counterparties wish to provide such Transaction detail, including, term, location, time, daily volume, price, start and end dates, buy/sell marker and exchange/broker and/or Counterparty name (collectively, the 'Transaction Data') to Canadian Enerdata Ltd. ('Enerdata'), an independent energy information and price index publisher, and,

Whereas Enerdata agrees to abide by certain covenants (*Data Submission, Usage and Confidentiality Agreement*) regarding the use and confidentiality of the Transaction Data,

Be it resolved that Counterparties hereby agree to waive the Confidentiality restrictions solely with respect to the provision of the Transaction Data to Enerdata.

This Waiver can be cancelled at any time provided that 60 days written notice is given to Counterparties and to Enerdata.

DATED _____ Data Provider Signature: _____

DATED _____ Enerdata Signature: _____

Counterparty Signatures

Counterparty A _____ Signature _____

Counterparty B _____ Signature _____

Counterparty C _____ Signature _____

Counterparty D _____ Signature _____

Counterparty E _____ Signature _____

Counterparty F _____ Signature _____

Counterparty G _____ Signature _____

(Please add any Additional Counterparties and Contacts here).

Schedule A

List of Natural Gas Transaction Counterparties

Counterparty A: _____ Contact: _____

Counterparty B: _____ Contact: _____

Counterparty C: _____ Contact: _____

Counterparty D: _____ Contact: _____

Counterparty E: _____ Contact: _____

Counterparty F: _____ Contact: _____

Counterparty G: _____ Contact: _____

(Please add any Additional Counterparties and Contacts here).