



**TERMS AND
CONDITIONS FOR
THE PROVISION OF
OMIP MARKET
DATA**

01.July.2024

Versions Index

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Initial Version

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B. GENERAL TERMS AND CONDITIONS

1. Definitions

Unless otherwise stated, capitalised terms used in these General Terms and Conditions have the following meanings:

“Access ID” means the individual and unique code allocated by OMIP to the Market Data User within the framework of certain Market Data Products (e.g. the Market Window service), which identifies the User and also represents a Unit of Account.

“Affiliate” means a third party that is directly or indirectly controlled by the relevant party, that directly or indirectly controls the relevant party, or that is directly or indirectly jointly controlled by the same parent company. In particular, control is presumed to exist where there is a shareholding of more than 50%.

“Audit” means an inspection of the Client to ensure that it is in full compliance with its contractual obligations.

“Authorised Market Data” means the Market Data that the Client is entitled to use, either for its own purposes or for subsequent disclosure, under the terms of the General Terms and Conditions and any agreements entered into with OMIP thereunder.

“Client” means the natural and/or legal person who concludes a Market Data Provision Agreement with OMIP and to whom the fees set out in the Price List are charged.

“Closed User Group” means a group of Users who have been granted access to Real-Time Market Data by a Client through the provision of an Access ID.

“Data Feed” means the technical medium by which Market Data is disseminated; control of subsequent redistribution rests with the recipients of the Market Data.

“Delayed data” means Market Data made available 15 minutes after it has been published.

“Device” means any terminal, application, platform and/or other system or device capable of accessing, receiving, processing, displaying and/or using the Market Data. Each set of login credentials (e.g. Access ID) that allows a Device to access the Information is considered a Device. If a Device has the ability to access the Information multiple times simultaneously, each possible simultaneous access shall be considered a Device.

“Displayed Data” means the Market Data provided or used through the medium of a monitor or screen and that can be read by humans.

“DMIFII” means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC

and Directive 2011/61/EU, as amended.

“Electricity Products” means futures, swaps, forwards and options whose underlying asset is electricity and which are traded on the OMIP trading platform.

“Gas Products” means futures contracts whose underlying asset is natural gas and which are traded on the OMIP trading platform.

“Internal Use” means the use of Market Data internally, i.e. the Market Data is used solely by the recipient of the Market Data (i.e. Client, Client’s Affiliate or Subscriber) or its employees and is not disclosed externally to third parties.

“Market” means the electricity and natural gas derivatives market operated by OMIP, which is a regulated market within the meaning of the DMIFII.

“Market Data” means the Market Data marketed by OMIP and obtained directly or indirectly by the Client. Data derived from Market Data shall continue to be taken into account for the purposes of the application of these General Terms and Conditions if (i) it can be determined by calculation or automated process, and/or (ii) the modification is made in such a way that the derived data can be used instead of the Market Data (i.e. as a substitute). In case of doubt, it is OMIP's sole responsibility to determine whether such data qualifies as Market Data for the purposes of (i) and/or (ii) above.

“Market Data Product” means the provision of Market Data by OMIP in accordance with the Market Data Offer in force from time to time and which may consist of an Electricity Product or a Gas Product.

“Market Data Provision Agreement” means the agreement concluded between OMIP and the Client regarding the use of Market Data by the Client, which consists of these General Terms and Conditions, the Price List and any specific terms and conditions agreed between the Client and OMIP, which may or may not deviate from these General Terms and Conditions.

“Market Data Supplier” means OMIP.

“Market Data Use” means the redistribution of Market Data to third parties (in particular Subscribers and Sub-vendor), the Use of Non-displayed Data and the Use of Displayed Data, regardless of whether such uses are unauthorised or erroneous. Therefore, there is a Use of Information even if the third party or the Client, as the case may be, is not aware of such uses.

“Non-displayed Data” means all Market Data that does not meet the definition of Displayed Data.

“Price List” means the list of prices for Market Data Products available at <https://www.omip.pt/pt/downloads>.

“Professional Client” means a Client who uses Market Data for the purpose of providing a regulated financial service or regulated financial activity or providing a service to third parties, or who is considered to be a large firm, i.e. who meets two of the following size criteria on an individual basis: i) balance sheet total of €20,000,000, ii) net turnover of €40,000,000, iii) capital of €2,000,000.

“Real-Time Data” means the Market Data made available within less than 15 minutes of its publication.

“Redistribution” means the sale of Market Data and unmodified Market Data to third parties, either directly by charging a fee for access to such data or by charging a general access fee.

“Retail Client” is a client who does not meet the definition of a professional client.

“Sub-vendor” is a Client of a Vendor who in turn uses Market Data for redistribution purposes (full-depth, real-time redistribution).

“Subscriber” means a third party to whom the Client makes a Market Data Product available for business purposes.

“Unit of Account” means the unit used to measure the level of use of the Market Data to be charged to the Client and applied for fee purposes.

“Use of Displayed Data” means viewing data through a graphical user interface, application or other means of visualisation.

“Use of Non-displayed Data” means the access, processing or using Real-Time Data for any purpose other than the Use of Displayed Data or the subsequent Redistribution thereof to third parties.

“User” means the person or company that has access to OMIP Data, regardless of how that person or company obtained access to the OMIP Data.

“Vendor” means a Client who uses Market Data for Redistribution purposes (full-depth, real-time redistribution).

2. Scope of application

2.1 These General Terms and Conditions govern the terms and conditions for the provision of Market Data by OMIP.

2.2 The specifications of the Market Data Products are available under [Market Data Rules](#).

3. Licence

3.1 Authorised or Licensed Market Data means the Market Data that the Client is entitled to use under these General Terms and Conditions.

- 3.2** Subject to payment of the fees due in accordance with the applicable Price List and for the duration of the Market Data Provision Agreement, OMIP grants the Client, depending on the type of Market Data Product and for the period agreed for the Market Data Product, a non-exclusive and non-transferable right to view, store, edit, process, modify, manipulate and translate the Market Data that is the subject of the Market Data Product; the use of the Market Data may include the following uses:
- a)** Internal Use;
 - b)** External Use by the Client for the purpose of Redistribution in its capacity as a Vendor, by means of Redistribution to Affiliates or Subscribers, exclusively for Internal Use by them or by Sub-vendors;
 - c)** External Use by the Client for the purpose of free media disclosure, including websites, publications, reports or studies.
- 3.3** The type of use selected determines the right to use the Market Data Products granted to the Client. Any use of the Market Data Products is only permitted in countries where such use does not violate applicable laws.
- 3.4** The right to process and modify the Market Data Products includes the right to create Derivative Data which shall be subject to the same restrictions on use as the Market Data used for the purposes of the Derivative Data.
- 3.5** The right of External Use includes the right of Internal Use.
- 3.6** The Client shall not use the Market Data Products in any way other than as expressly permitted by these General Terms and Conditions and in accordance with the specifications of the contracted Market Data Product; in particular, unless expressly authorised to do so, the Client undertakes not to:
- a)** access, download, store, sell or use Market Data that is not covered by a licence granted by OMIP;
 - b)** sell, distribute, publish or otherwise make the Market Data available to third parties;
 - c)** transfer the right to use the Market Data in whole or in part to a third party.
- 3.7** The use of white labelling is only permitted with the prior written consent of OMIP.
- 3.8** The right to use Market Data does not entitle the Client to use the Market Data Products to create a financial product or an index serving as a reference for a financial product. Such use is strictly prohibited.

4. Intellectual property

- 4.1 The Client accepts and acknowledges that OMIP is the sole owner of all copyrights and other intellectual property rights in and to the OMIP Market Data.
- 4.2 OMIP grants licences only for the purposes expressly provided for in these General Terms and Conditions or for the purposes expressly authorised by OMIP in writing.
- 4.3 In the case of distribution of Market Data, the Client must, whenever technically possible, cite OMIP as the source.

5. Market Data Redistribution

- 5.1 The Redistribution of Licensed Market Data by the Client to Sub-vendors is only permitted with the express written consent of OMIP.
- 5.2 If the Client redistributes Market Data Products to a Sub-Distributor without OMIP's authorisation pursuant to paragraph a), the Client and the Sub-Vendor shall be jointly and severally liable for the fees due to OMIP in respect of the Market Data Products distributed. In the absence of credible information on the distribution of Market Data Products to the Sub-vendor in question, OMIP shall be entitled to estimate the basis for applying the fees to be charged based on a reasonable criterion.
- 5.3 A company is considered to be a Sub-vendor:
 - a) if it receives information from a Vendor;
 - b) if the information is presented in the layout of the company's own product or service (e.g. by incorporating a logo, brand and/or name of the company), through a product or service of the Client (e.g. white labelling); and/or if the information is presented in the layout of a joint product or service of the company and the Client (e.g. by incorporating a logo, brand and/or name of the company and the Client in the form of co-branding).
- 5.4 The Redistribution of Real-Time Market Data via a Data Feed, an API and/or any other form of uncontrolled Redistribution is subject to OMIP's prior written consent. The Redistribution of Real-Time Market Data is only permitted within Closed User Groups, unless expressly permitted for the specific Market Data Products. Redistribution within Open User Groups is permitted in the case of Delayed Data as well as in the case of Real-Time Market Data Products expressly authorised for this purpose.
- 5.5 Subscribers may only use the Licensed Market Data for internal purposes. The Redistribution of Market Data by Subscribers to third parties requires the prior written consent of OMIP. The prohibition of subsequent Redistribution does not apply if the Subscriber is also a Vendor.
- 5.6 The Client may redistribute the Licensed Market Data to Affiliates, subject to prior notification by OMIP identifying the Affiliates concerned.

5.7 The Client who redistributes Market Data to Affiliates guarantees that each of the Affiliates is bound by these General Terms and Conditions and/or other contractual terms expressly agreed between the Client and OMIP. The Client accepts and acknowledges that all obligations incumbent on the Client and all other provisions applicable to the Client in respect of Market Data shall also apply to the Affiliate to the same extent as they apply to the Client, with the exception of the fees payable to OMIP, which shall be duly paid only by the Client unless the parties expressly agree otherwise. The Affiliate's failure to fulfil its obligations shall also result in the Client's failure to fulfil the same obligations, for which the Client shall be fully liable.

6. OMIP obligations regarding the provision of Market Data

6.1 OMIP shall use reasonable efforts to:

- a)** to ensure that the licensed Market Data Products made available to the Client and the additional services provided to the Client have been and will continue to be developed with due care and skill in a professional manner and are accurate, current and complete and that the sources of the Market Data Products are reliable;
- b)** promptly correct or complete any errors or omissions of which OMIP becomes aware and then to provide the corrected or omitted data as current and complete and that the sources of OMIP's Market Data Products are reliable;
- c)** promptly correct or complete any errors or omissions of which OMIP becomes aware and then retransmit the licensed, corrected or completed Market Data Products to the Client; and
- d)** ensure that the licensed Market Data Product continues to be delivered to at least the same standard of quality, quantity and timeliness as at the date it was formally accepted by the Client as meeting the levels of coverage, timeliness, accuracy and specifications.

6.2 The use of the licensed OMIP Market Data Products by the Client, Affiliates, Sub-vendors, Subscribers or other users is at their own risk.

6.3 OMIP reserves the right to suspend the provision of OMIP Market Data Products for technical reasons.

7. OMIP rights - Audits

7.1 OMIP has the right to carry out audits at the Client's premises or at a distance in order to analyse the relevant information to verify compliance with the provisions of these General Terms and Conditions, including the Client's technical infrastructure. The Client undertakes to grant OMIP and its advisors access to the documents and the relevant technical infrastructure.

- 7.2** OMIP's right to audit shall be maintained for a period of 2 years after the termination of the Market Data Provision Agreement.
- 7.3** If the Client refuses to carry out the audit or does not provide access to certain relevant documents or the technical infrastructure, OMIP may:
- a)** at its reasonable discretion, make a preliminary estimate of an expected additional payment based on appropriate criteria (e.g. previous reports or reports of comparable companies, as appropriate), and charge such estimate as an advance payment; and/or
 - b)** suspend access to or the provision of Market Data until such time as the outstanding obligations have been satisfactorily discharged; and/or
 - c)** make access to or provision of Market Data subject to the monthly payment of an amount to be determined by OMIP on a reasonable basis until the situation is regularised.
- 7.4** The advance payments referred to in Clause 8.3/c shall be credited to the Client if it is established that the Client does not owe any amounts after the missing audit has been carried out.
- 7.5** The Client shall bear the costs of the audit if the audit reveals that the Client has not complied with the Data Origination Service Agreement and that the Remuneration due differs from the amount actually paid.
- 7.6** The provisions of this clause do not apply to Market Window and Market Window GV products.

8. Client obligations – Payment of fees

- 8.1** The provision of Market Data by OMIP is subject to payment of the fees set out in the Price List.
- 8.2** The provisions of Clause 8.1 shall not apply to access to Delayed Data from OMIP's website under [Market Results](#).
- 8.3** Where applicable, value added tax shall be added to the amounts stated in the Price List.
- 8.4** Invoices shall be payable immediately upon receipt. If the Client fails to make payment within [30] days of receipt of the invoice, the amount of the invoice shall bear interest at the statutory rate for late payment interest for commercial payments.
- 8.5** OMIP may suspend access to the Market Data Product if the Client fails to pay the outstanding amounts within the additional period set by OMIP, which may not be longer than 15 days.

8.6 If the Price List contains special preferential conditions for the Redistribution of Market Data to Retail Clients, such preferential conditions shall only apply if the Client has taken appropriate measures to ensure that the Subscriber concerned does not meet the definition of a Professional Client. The Client must at least require the Subscriber concerned to provide a statement on a durable medium confirming that the Subscriber does not meet the criteria of a Professional Client. The Client must regularly, and at least once a year, check that the information provided by the Subscriber is still up to date.

9. Client obligations – Duty to report

9.1 When redistributing Market Data, the Client shall take appropriate measures within the scope of its activities and the activities of its Subscribers to ensure that the actual number of relevant Account Units (e.g. Access ID) as well as all Sub-Vendors can be reported to OMIP on a monthly basis or according to the periodicity expressly agreed with OMIP.

9.2 The provisions of Clause 9.1 shall not apply to Market Data Products for which a flat fee is payable.

9.3 The Client's ability to comply with the relevant reporting obligations is a prerequisite for OMIP to grant permission for the Redistribution of Market Data and must be verifiable at any time upon request by OMIP.

9.4 If OMIP becomes aware (e.g. in the course of an audit) that the Client does not fulfil the necessary requirements to comply with the reporting obligation, OMIP shall have the right, in addition to the right to terminate the Market Data Provision Agreement with the Client:

- a)** at its sole discretion, make a preliminary estimate of the amount payable for the provision of Market Data based on appropriate criteria (e.g. reports of other comparable companies) and charge for such estimate; and/or
- b)** suspend the provision of Market Data or the license to use Market Data until an appropriate reporting procedure has been put in place; and/or
- c)** take such other reasonable steps as may be appropriate to remedy the situation.

9.5 Access to Market Data (in Real-Time) using the Market Window service shall be done via Access ID corresponding to the Unit of Account. The following shall apply:

- a)** sharing a unique Access ID between multiple Users is not permitted;
- b)** using the same Access ID for more than one Device (simultaneous access) is permitted if (i) the User cannot access the licensed Market Data Product simultaneously via more than one Device for technical reasons, or (ii) if the Client

assures OMIP that only the User registered under the respective Access ID has access to the licensed Market Data Product.

- 9.6** implies an obligation on the part of OMIP's client to report the existence and number of Sub-vendors and/or Subscribers, as applicable, on a monthly basis, or at any other frequency expressly accepted in writing by OMIP.

10. Other obligations of the parties

- 10.1** The Client undertakes to keep its identification and contact details up to date with OMIP, in particular to enable invoices to be sent by e-mail.
- 10.2** The Client accepts that the email addresses provided in their account as part of the registration process may be used for contact and notification purposes for any purpose within the scope of these General Terms and Conditions.
- 10.3** The Client is responsible for ensuring that the technical requirements necessary to receive the Market Data Products that OMIP wishes to provide are met.
- 10.4** In the case of the Redistribution of Market Data, if the Client's Subscribers are only able to view the information by means of a special Device (other than a personal computer, etc.) that must be installed at OMIP, the Client shall be responsible for the installation of this Device. The Client shall install this Device at the request of OMIP and shall bear the costs of installation and maintenance. The cost of the telecommunication lines shall be borne by OMIP.
- 10.5** The Client must validate the accuracy and completeness of the Market Data provided using an automated data validation system.
- 10.6** OMIP shall make all reasonable efforts, taking into account the current state of information technology, to ensure the accuracy, completeness and timely disclosure of the Market Data it makes available. Any other responsibility of OMIP for the accuracy, completeness and timely disclosure of the Licensed Market Data shall not be considered part of OMIP's contractual obligations.

11. Amendments

- 11.1** OMIP shall have the right to amend these General Terms and Conditions by notifying the Client at least [60] calendar days before the proposed date of entry into force of the amendments.
- 11.2** If the Client remains silent within 30 days of receipt of OMIP's notification, the Client shall be deemed to have accepted the proposed amendments. If the Client does not agree with the proposed amendments, they may terminate the contract for the provision of some or all of the Market Data Products they have contracted with OMIP with immediate effect and at no additional cost.

11.3 Termination of the agreement in accordance with Clause 11.2 shall not release the Client from the fulfilment of any of its obligations due or falling due up to the effective date of termination, namely any fees due to OMIP for services rendered up to that date.

11.4 The above does not apply to amendments that do not affect the Market Data Provision Agreement entered into with the Client, or the Market Data Products provided to the Client, which OMIP is entitled to implement with immediate effect.

12. Protection and confidentiality of data

12.1 OMIP has a duty of confidentiality with regard to information provided by the Client relating to its business, in particular information relating to the Client's turnover and clients to which it has access in connection with the provision of Market Data ("**Confidential Information**").

12.2 Information that is not Confidential Information at the time of disclosure includes information:

- a)** available to the general public without resulting in a breach of the obligation of confidentiality set out in Clause 13.1;
- b)** developed independently by the receiving party without the use of Confidential Information;
- c)** disclosed to the receiving party by a third party who is not under any obligation of confidentiality with respect to it or was already in the receiving party's possession at the time of disclosure to the receiving party; or
- d)** pre-approved for disclosure by the other party.

12.3 Each party shall have the right to disclose Confidential Information to its employees, agents, independent contractors and consultants on a need-to-know basis, provided that they are bound by confidentiality provisions at least equivalent to the provisions of this clause or by obligations of professional secrecy.

12.4 A party may disclose Confidential Information of the other party to the extent required by mandatory law or by order of a court of competent jurisdiction or applicable governmental, quasi-governmental or regulatory authority.

12.5 Within the scope of the contractual relationship between OMIP and the Client, persons associated with the Client may have to provide OMIP with personal data, which shall be processed by OMIP for the purpose of executing the contract and providing services to the Client. In the processing of personal data, OMIP shall comply with all applicable legal provisions on the protection of personal data.

13. Warranties and liability

- 13.1** OMIP does not warrant or assume any liability for the accuracy, completeness, correctness or timeliness of the Market Data Products. OMIP does not warrant that the Market Data Products will be provided without interruption and be fully available.
- 13.2** Market Data Products are provided for information purposes only and do not constitute investment advice.
- 13.3** OMIP shall be liable in accordance with the law for any damage caused to its Clients in the event of wilful misconduct or gross negligence:
- a)** for loss or damage to the life, moral integrity, physical integrity or to the health of any person caused by OMIP, its legal representatives or its agents, at least by negligence; and
 - b)** for any other loss or damage caused by an intentional or grossly negligent act or omission on the part of OMIP, its legal representatives or agents.
- 13.4** In all other cases, OMIP shall only be liable for loss and damage resulting from the breach of a contractual obligation by OMIP, its legal representatives or agents, excluding indirect damage and loss of profit.
- 13.5** The Client shall be liable for the acts or omissions of its Affiliates to the same extent as it is liable for its own acts or omissions.
- 13.6** Each party represents, warrants and acknowledges that it has the legal right and full power and authority to perform and discharge its obligations under these General Terms and Conditions and any specific agreements it enters into with the other Party in connection with the Provision of Market Data and to grant all rights and licences granted to it thereunder.
- 13.7** OMIP represents, warrants and acknowledges that the Provision of Market Data does not and will not infringe any proprietary rights or privacy rights of any third party.
- 13.8** By entering into a Market Data Provision Agreement with OMIP, the Client represents, warrants and acknowledges that it is not entering into any contractual relationship with any third party rights holder.
- 13.9** Except in the case of injury to life, moral or physical integrity, or in the case of a wrongful act or omission, OMIP shall under no circumstances be liable for any loss or damage for which it is required to pay compensation after the expiry of two years from the end of the year in which the Client becomes aware, or should have become aware but for gross negligent act on its part, of the circumstances giving rise to OMIP's act or omission, and any claim for compensation by the Client shall be deemed to have lapsed for all purposes from that date.

14. Force Majeure

OMIP and the Client shall not be liable for damage caused by force majeure (e.g. riots, wars or natural disasters) or other events beyond their control (e.g. strikes, lock-outs, traffic disruptions, instructions from national or foreign authorities), nor for technical problems caused through no fault of their own, such as problems related to the computer system. Situations arising from computer viruses and intentional hacking of computer systems are considered to constitute Force Majeure, provided that reasonable security measures have been taken to prevent them from occurring.

15. Term and termination

- 15.1** The Market Data Provision Agreement shall enter into force on the date agreed between the Client and OMIP and shall be valid for an indefinite period.
- 15.2** Either party may terminate the Market Data Provision Agreement in question with effect from the end of a calendar month, subject to 60 days' prior notice.
- 15.3** The Client shall be entitled to terminate Market Data Products and/or individual licences with 30 days' notice to the end of a calendar month. If no Market Data Products remain after a partial termination in accordance with the first sentence of this paragraph, the partial termination shall be deemed to be a termination of the entire Market Data Provision Agreement.
- 15.4** OMIP shall have the right to terminate individual contractual services, in particular Market Data Products and/or licences, by giving 90 days' notice to the end of a calendar month if such contractual services are completely terminated or substantially changed. In the event of a partial termination of the Market Data Provision Agreement by OMIP, the Client shall have the right to terminate the entire Market Data Provision Agreement with 30 days' notice with effect from the date on which the partial termination by OMIP becomes effective.
- 15.5** Either party shall have the right to terminate the Market Data Provision Agreement in whole or in part on specific grounds. OMIP shall be deemed to have specific grounds for termination if the Client, despite a written warning, fails to remedy the breach of the material obligations of the Agreement within the period specified in the notice, which may not be less than 30 days, unless another period is expressly applicable.

16. Applicable law and jurisdiction

- 16.1** These General Terms and Conditions and all the agreements concluded between OMIP and the Client under these General Terms and Conditions shall be governed by Portuguese law.
- 16.2** Any dispute arising from these General Terms and Conditions shall be subject to the exclusive jurisdiction of the Lisbon District Court.