

# Platform Usage Contract (PUC)

GENERAL TERMS AND CONDITIONS FOR THE USE OF THE PRISMA CAPACITY PLATFORM AS OF  
14 MARCH 2023

## Part I. SCOPE

### Article 1: Definitions

The capitalised words, expressions and abbreviations used in this PUC shall have the meaning as defined in the Glossary, in Regulation EC No 715/2009, Directive 2009/73/EC, Commission Regulation (EU) 2017/459 (CAM NC) or Regulation (EU) No 1227/2011 (REMIT), Council Regulation (EU) 2022/2567.

### Article 2: Platform Usage Contract

1. The Platform Usage Contract (PUC), between the Customer and PRISMA European Capacity Platform GmbH (PRISMA), is concluded with the acceptance of this PUC and PRISMA's Privacy Policy by registering with the Platform.

Subject to the subscription of further services, acceptance of additional terms and conditions for the specific service will be required by PRISMA and applying between the Customer and PRISMA.

2. The PUC is concluded for an indefinite period. Customers have the right to terminate the PUC at any time according to Art. 13, para. 1. PRISMA can also terminate the PUC according to Art. 13, para. 2 et seq.
3. As a general principle, PRISMA itself offers neither capacity rights nor storage services or products nor any commodity related rights or obligations and does not become a party to any transport or storage contracts or transfer of transport or storage contracts or commodity related contracts. PRISMA is therefore not responsible for the offering and arrangement of the corresponding capacity or storage products and delivery, acceptance or any financial settlement related to commodity.

### Article 3: Scope of application

1. Customers, their User Administrators and their Users shall use the PRISMA Platform in compliance with all Applicable Regulations, in particular, but not limited to REMIT, Regulation EC No 715/2009, and Directive 2009/73/EC.
2. The PUC includes provisions regarding:

- 2.1. the contractual relationship established between the Customer and PRISMA related to the use of the PRISMA Platform;
- 2.2. the conditions for the use of the PRISMA Platform by Customers, and their authorized User Administrators and Users. Customers ensure that their User Administrators and Users comply with all rights and obligations pursuant to the PUC;
3. Any conflicting, deviating and/or supplementary provisions provided by the Customers regarding the scope of this PUC, including but not limited to the Customer's special or general contractual terms and conditions, are hereby expressly rejected.

#### **Article 4: The PRISMA Platform: access and service prices**

1. PRISMA provides the electronic platform at: <https://platform.prisma-capacity.eu>, at which inter alia:
  - 1.1. primary and secondary market, entry and exit capacities of TSOs are marketed and traded;
  - 1.2. SSO services are published and Bids of respective Storage Users are collected;
  - 1.3. LSO services are published and Bids of respective LSO Users are collected;
  - 1.4. PRISMA is acting as the contracted service provider by the European Commission (DG ENER) for demand aggregation and joint purchasing according to Section 2 of COUNCIL REGULATION (EU) 2022/2576 of 19 December 2022.
2. The PRISMA Platform is an IT-infrastructure. Therefore, PRISMA does not act as an agent for or on behalf of TSOs, Network Users, SSOs, LSOs, or Storage Users or LSO Users and buyers or sellers. The fulfilment and processing of Contracts between TSOs and Network Users, Contracts between SSOs and Storage Users, Contracts between LSOs and LSO Users, and contracts related to commodity between buyers and sellers take place outside the PRISMA Platform.
3. The use of the PRISMA Platform for the services as mentioned in Sections 1.1. to 1.4 above is free of charge for the User. Within the scope of the Applicable Regulations, PRISMA is entitled to introduce fees and charges for the use of the PRISMA Platform. Any changes must be introduced in line with the rules laid down in Art. 12 and are subject to the approval of National Regulatory Authorities if required by Applicable Regulations.
4. Other services such as REMIT Reporting or API (Application Programming Interface) are priced separately and are subject to separate general terms and conditions.

## **Part II. ACCESS AND CONDUCT RULES**

### **Article 5: Registration of the Customer on the PRISMA Platform**

Registration for the PRISMA Platform is a two-step process that involves:

1. The creation of an account on the PRISMA Platform.
2. The designation and validation of the initial User Administrator.

### **Article 6: Creation of an account on the PRISMA Platform**

Customer's account is created at the PRISMA Capacity Platform in two steps:

1. Entering the following information, not limited to:
  - 1.1. Customer's information: name, address, billing information, the valid EIC as published by ENTSOE and/or ENTSOE and as specified in the Centralized European Registry of Energy Market Participants (CEREMP); and,
  - 1.2. Initial User Administrator's information: name, email address, phone number and a Power of Attorney (PoA).
2. Requesting a Token Device for the Customer to access the PRISMA Capacity Platform. The User Administrator must choose between a hardware or software solution. If selected, the delivery of the hardware solution could take 2 to 10 business days. In the meantime, a preliminary Customer account will be created at the PRISMA Capacity Platform.

### **Article 7: Appointment of the User Administrator**

1. A User Administrator is a natural person who is granted by the Customer, via PoA, the legal capacity to make binding declarations and action on behalf of the Customer and to perform especially but not limited to the following functions and obligations:
  - 1.1. regarding the Customer to:
    - a. Register the Customer with PRISMA and accepting the terms and conditions of PRISMA and PRISMA's services;
    - b. Accept this PUC and/ or any other specific terms and conditions of PRISMA and PRISMA's Privacy Policy on behalf of the Customer.
    - c. Receive and accept the results of the consultation and new version of this PUC and/ or any other specific terms and conditions of PRISMA and PRISMA's Privacy Policy in case of modification, update or amendment.

- d. Activate and deactivate features and to subscribe and unsubscribe to or from functionalities and services provided by PRISMA;
- e. Manage and update and to submit, compile and maintain the Customer's information, documentation and data without undue delay;
- f. Manage rights and assignments of the Customer's Users;
- g. Participate in transactions on PRISMA Platform;
- h. Terminate the PUC.

1.2. regarding Users:

- a. to register and administer further Company Users on the PRISMA Platform, including the management of their respective rights, assignments, and authorization for their participation in transactions on the PRISMA Platform;
- b. Manage Users in the Prisma Platform, which includes:
  - registering new Users;
  - sending the PUC to the Users for their individual acceptance,
  - uploading Users' Information at registration,
  - deactivating assignments, and
  - deactivating Users
  - adding User Administrators, thereby entitling them to the same rights as mentioned for the Initial User Administrator.

1.3. regarding the PRISMA Platform:

- a. Provide PRISMA with additional information as required by PRISMA's customers.
- b. Keep the Customer's registration information up to date upon successful registration of individual Users.

2. To validate a User Administrator, it is necessary to upload:

- 2.1. the Power of Attorney Form (PoA) as provided by PRISMA, to be filled and legally authorising the Initial User Administrator to act on the PRISMA Platform, signed and duly identifying the authorising representative(s), i.e. by qualified electronic signature (QES) as defined in Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market (the eIDAS Regulation); and,

- 2.2. the commercial registry extract (and/or any other legally valid document proving company's incorporation, existence, and legal representation), issued no later than three months before uploading, to prove the legitimacy of the submitted PoA. PRISMA will review the document uploaded by the User Administrator and upon that will or will not recognize their legal capacity and inform the User Administrator without undue delay. PRISMA preserves the right to request the originals of the submitted documents.

#### **Article 8: Appointment of the User(s)**

1. The Users are natural persons granted authority by a User Administrator(s) to participate in transactions on the PRISMA Capacity Platform.
2. The User(s) receive their Token Devices and temporary passwords to access the PRISMA Platform only after prior acceptance of this PUC.

#### **Article 9: Conduct on the PRISMA Capacity Platform**

1. The Customer and the respective User Administrators and Users shall behave in a prudent and reasonable manner, which means to fulfil, in particular, the following obligations:
  - 1.1. to keep the information of the Customer, User Administrator and Users up to date;
  - 1.2. to refrain from any action which is illegal or may directly and/or indirectly infringe any market behaviour rules or regulations, including but not limited to REMIT; and,
  - 1.3. to refrain from any actions that lead or could lead to the damaging or reduction in effectiveness of the PRISMA Capacity Platform, that can be linked to an attack on the information system such as, but not limited to, spam, virus, brute forcing, Trojan horse attack, denial of service attack, ping of death attack, sniffing and spoofing and dictionary attack.
2. Customers, their User Administrators and their Users shall not manipulate the course of an transaction or auction, in particular through ghost-bidding (e.g. by using sniper tools), shill bidding, or assuming multiple roles in a single auction. However, in accordance with Applicable Regulations a TSO or SSO may assume multiple roles in auctions (e.g. as a TSO or Network User).
3. Customers, User Administrators and their respective Users are not allowed to execute through PRISMA any transaction in Financial Instruments. If nevertheless

PRISMA finds that a Customer, their User Administrator(s) and/or the respective User(s) try to execute a transaction in Financial Instruments, their respective transactions shall be rejected and the Customer, User Administrators and its User(s) may be deactivated from the Secondary Market functionalities on the PRISMA Capacity Platform.

4. In case of infringements of the preceding paragraphs, Art. 13, Art. 14 and Art. 15 apply.

#### **Article 10: Functionality and suspension of the PRISMA Capacity Platform**

1. PRISMA may restrict or suspend its services temporarily if this is necessary to guarantee the security and integrity of PRISMA Capacity Platform or for maintenance. The same applies to cases of unforeseen technical difficulties or disruptions such as and especially in the case of the interruption of the power supply or a hardware or software error which causes the breakdown and/or failure of the PRISMA Capacity Platform or other customers' connected systems. The provision of Art. 13 remains unaffected.
2. PRISMA shall notify the affected Customers in due time of maintenance measures carried out on the PRISMA Capacity Platform. A schedule for planned maintenance will be published on the platform regularly. Information about unplanned maintenance will be published as an Urgent Market Message on our website and as RSS feed and made available to the Customers without undue delay on the Platform and via established electronically means.
3. If PRISMA is unable to resolve situations within the meaning of para. 1 within a reasonable time or at reasonably justifiable expenses, PRISMA shall use reasonable efforts to propose an alternative or interim solution to the Customers in order to meet their needs.
4. In the case of a limitation of the availability and/or functionality of the PRISMA Platform as described in para. 1, any procedures currently in progress may be interrupted and continued later.
6. The proper functioning of telecommunications services the Customer needs to access the Prisma Capacity Platform is not within PRISMA's sphere of influence. Therefore, each and any liability and/or warranty of PRISMA with regard to said services is herewith excluded.

#### **Article 11: Protection of PRISMA's system security**

1. The Customer shall guarantee the careful handling of access information and Access Keys needed for the use of the PRISMA Capacity Platform. A careful handling includes, in particular to:
  - 1.1. safeguard and ensure the exclusive use of the Token Device by the User Administrator and Access Keys (Tokens) by the User to whom they were assigned;
  - 1.2. not forward or make available information about the Access Key to third parties; and,
  - 1.3. safeguard the working place after successfully logging on to PRISMA Capacity Platform.
2. The Customer shall notify PRISMA immediately when:
  - 2.1. an Access Key has been lost or corrupted; or,
  - 2.2. a well-founded suspicion exists that access information has become available to an unauthorised third party.

### **Part III. PROVISIONS REGARDING CONTRACT MODIFICATION, TERMINATION AND PLATFORM DEACTIVATION**

#### **Article 12: Changes to the PUC**

1. PRISMA reserves the right to change or expand the scope and the content of the provisions of the PUC, in particular when this is necessary to meet the requirements of applicable laws and regulations and/or legally binding rulings from national or international courts or agencies (e.g. decisions made by the respective regulatory authority) and to conform with, or as a result of, technical adjustments.
2. In case of major changes or amendments to the PUC and if required by Applicable Regulations those changes are subject to a timely and public consultation with:
  - 2.1. national competent agencies or authorities; and,
  - 2.2. stakeholders.
3. Changes can be considered minor even if they require changes to the Customers' back end systems.
4. After the consultation, User Administrators shall be notified in a timely manner of any consolidated changes or amendments in Text Form. In case of disagreement with

the introduced changes or amendments, the Customer can terminate the PUC in accordance with Art. 13.

### **Article 13: Contract termination and deactivation of the Customer**

1. The immediate consequence of the termination of the PUC is the deactivation of the Customer from the PRISMA Platform. This means that the Customer will no longer have access to the Platform and will not be able to use its functionalities.
2. The Customers may terminate the PUC either by deactivating all of their Users' and User Administrators' accounts on the PRISMA Platform or by submitting to PRISMA the corresponding PRISMA template in the Written Form. With the deactivation of the last User Administrator of the Customer, the account of that Customer will be deactivated.
3. PRISMA may also terminate the PUC in case of discontinuing operations of the PRISMA Platform at any time with a notice period of at least 3 months to the end of the month. The Customers are to be notified of the reasons in Text Form. PRISMA will notify the Customers of the precise point in time of the discontinuation of the operation of the PRISMA Platform in a timely manner.
4. Subject to applicable regulations, PRISMA is also entitled to terminate the PUC and deactivate the Customer in the following cases:
  - 4.1. in the event of bankruptcy, liquidation or dissolution of the Customer; or,
  - 4.2. following the receipt by PRISMA of a decision of a competent authority stating that the Customer has committed an abusive or fraudulent act and requesting the exclusion of the Customer from the PRISMA Platform; or,
  - 4.3. in case of definitive withdrawal of all business relations of the Customer concerned with other customers; or,
  - 4.4. based on evidence or grounds to believe that a Customer (a) jeopardizes the proper functioning of the PRISMA Platform; (b) contravenes any reasonable action, measure, or instruction of PRISMA under this PUC; and/or (c) persistently and/or intentionally breaches the PUC.

In these cases, PRISMA will terminate the PUC and deactivate the Customer according to the following process:

- a. PRISMA shall notify the Customer in Text Form about the reasons for termination of the PUC and deactivation of the Customer; the date and time of the deactivation; the consequences of the deactivation and of the obligation to remedy any breach or non-



compliance of its contractual obligations. The notification shall contain the following information:

- the alleged breach of, or non-compliance with the PUC,
  - the necessary action(s) that should be taken by the Customer to remedy the breach and/or non-compliance,
  - a deadline of minimum 14 calendar days, starting from the date of receipt of the notification, within which these action(s) should be taken, and
  - the possibility for the Customer, upon its request in Text Form to answer to this notification.
- b. If the Customer does not take the requested action(s) to remedy the breach within the above-mentioned deadline, the Customer may be deactivated by PRISMA. This decision of deactivation shall be taken within minimum 7, and maximum 14 calendar days starting at the end of the abovementioned deadline. PRISMA notifies the deactivation decision in Text Form. This notification will include the date and time when the termination of the PUC and consequent deactivation from the Platform, takes effect and the reasons for termination and deactivation.
5. If the Customer demonstrates that the conditions to place transactions have been met again and/or there is a ground for belief that the Customer will comply with the PUC, the Customer will be allowed to start a new registration process on the Platform.
6. Deactivation of a Customer will automatically result in the deactivation of all respective User(s) of said Customer. If the Customer is active on other sections of the PRISMA Platform or is subscribed to other services or functionalities, the deactivation affects the registration of all sections and access to all functionalities.
7. All transactions performed before the termination of the PUC remain unaffected by the termination.
8. Upon termination of the PUC, PRISMA reserves the right to request the return of all hardware tokens and the software tokens must be deactivated without undue delay, but in any case, no later than 14 calendar days after termination.
9. If a hardware token is not returned after PRISMA's request, PRISMA is entitled to bill the Customer for the costs of the hardware token. In that case, the Customer is obliged to pay the costs of the hardware token.

#### **Article 14: Deactivation of User Administrators**

The Platform accounts of User Administrators will be deactivated upon withdrawal of the respective PoA. User Administrators appointed by such User Administrator shall remain valid unless the PoA of each of them is individually withdrawn. If the User Administrator that is about to be deactivated is the last one active on the Platform, and there are still Users or assignments under their responsibility, the Customer must appoint a replacement immediately.

#### **Article 15: Deactivation of Users**

1. User Administrators can deactivate the accounts of their Users.
2. PRISMA can also deactivate accounts of Users if there exists evidence or ground for belief that a User:
  - 2.1. has infringed or contravenes the PUC; or,
  - 2.2. contravenes any reasonable action, measure or instruction of PRISMA under the PUC.Before deactivation, PRISMA shall consider the interests of the affected User, the Customer concerned, as well as all other related customers engaged with the Customer.
3. In case of severe breaches, and after informing the concerned engaged customers, PRISMA is entitled to immediately deactivate the respective User. Severe breaches are constituted inter alia by attacking the Platform or manipulating transactions, or by executing any transaction in Financial Instruments.
4. PRISMA shall accept a new registration of a deactivated User if the Customer proves the establishment of internal procedures to ensure compliance of this User with the PUC.
5. If one User of a Customer is repeatedly deactivated, PRISMA has the right to exclude this User permanently.
6. After the deactivation of a User account, Art. 13, para. 8 and 9 apply accordingly.

#### **Part V. OTHER PROVISIONS**

##### **Article 16: Liability and warranty**

1. PRISMA makes the PRISMA Platform available as described in this PUC. PRISMA does not, in doing so, take any responsibility for, or make any guarantee concerning the contracts concluded between customers, in particular, for the actions, capabilities and performance of the contractual parties involved.
2. Each party to the PUC shall be liable without limitations:

- a. for damages arising from culpable injury to life, limb or health, caused by an intentional or negligent breach of duty;
- b. for any other damages caused by an intentional or grossly negligent breach of duty.
3. The liability for damages in case of breach of material contractual obligations through simple negligence, i.e. non-gross negligence, is limited to the contract-typical, foreseeable damage.
4. All other liability not mentioned in this article is excluded.
5. Material contractual obligations are obligations, the performance of which are fundamental to the proper performance of the PUC, and the performance of which the parties to such a contract normally rely on and may at all times expect.
6. Contract-typical and foreseeable damages are those which the contractual partner foresaw as a possible result of breach of contract at the time of contract conclusion, or those which, under consideration of the circumstances which were or should have been known to him/her, should have been foreseen had due diligence been applied. Contract-typical, foreseeable damages are deemed not to exceed 250.000 € for an event of damage.
7. Claims resulting from the expressed assumption of guarantee and from absolute liability, in particular product liability, remain unaffected by the above-mentioned liability exclusions and limitations.
8. The aforementioned liability provisions also apply to legal representatives, employees as well as sub-contractors or vicarious agents of parties to the PUC.

#### **Article 17: Force majeure**

1. Force majeure is an event which occurs due to occurrences outside one's own control and not because one's fault, is not foreseeable, may not be avoided (or avoided in a timely fashion) by use of due diligence and technologically or economically reasonable means and which makes it impossible to fulfil temporarily or definitively ones' contractual obligations.
2. Such occurrences include, in particular, natural catastrophes, terrorist attacks, interruption of the power supply or communications technology, legally occurring strikes as well as legal provisions or actions ordered by governmental institutions, agencies or the courts (independent of their legality). For the avoidance of doubt, the exit of the United Kingdom (or another European Union Member Country) from the European Union shall not be considered force majeure.

3. In case of force majeure, the contractual party invoking force majeure shall be freed of the obligations affected by force majeure for the duration of the event of force majeure. The other contractual party shall be freed of his own contractual obligations in such cases for as long as it is impossible to the contractual party affected by force majeure to fulfil contractual obligations.
4. The contractual party affected is obligated to immediately inform the other contractual party of the reason for, and expected duration of the event of force majeure. The contractual party affected is obligated to make an effort, using all technological and economically reasonable means, to ensure that he is able to fulfil his contractual obligations again as soon as possible.
5. If the contractual party uses a third party to execute the obligations under the PUC, and the third party experiences an occurrence which satisfies the conditions of force majeure or other condition in the sense of para. 1, this occurrence shall be considered as force majeure affecting the contractual party as well.

#### **Article 18: Use of data**

1. The parties commit to comply with data protection laws and regulations.
2. PRISMA may store, use and process data of its Customers, User Administrator(s) and Users. PRISMA may also store, use and process data generated via the PRISMA Platform:
  - 2.1. for the execution and/or documentation of the PUC; or,
  - 2.2. to comply with legal or contractual requirements.
3. In the context of Data Protection Regulation, PRISMA processes personal data to fulfil the PUC, whereas the Customers are responsible for the personal information they upload in the Platform. How PRISMA complies with the current data protection regulation is specified in PRISMA's privacy policy available at PRISMA's corporate website <https://corporate.prisma-capacity.eu/privacy/>, which may change from time to time.
4. The User Administrator(s) is responsible for erasing registration information of other User Administrators and Users upon PUC termination. Nevertheless, PRISMA will retain personal information if necessary to comply with the General Data Protection Regulation (GDPR) and other EU and national laws.
5. PRISMA may erase information of the Customer and personal information of the User Administrators and Users, upon PUC termination, and according to PRISMA's erasure

policy, if it has been impossible to contact the Customer and/or one of their User Administrators.

6. PRISMA shall share company and personal data of the Customer, their User Administrators and their Users with the respective customers being contractual parties to the Customer. PRISMA will also share company and personal data (subject to Applicable Regulations) with competent authorities.
7. PRISMA may disclose data concerning its Customers, User Administrators(s) and their User(s) on the PRISMA Capacity Platform if that data is required for the execution of the related contracts.

### **Article 19: Confidentiality**

1. In addition to this article, Art. 16 Directive 2009/73/EC and its national transposition measures apply.
2. Without prejudice to Art. 16 Directive 2009/73/EC, the parties of the PUC agree to treat, subject to the provisions in para. 4, as confidential all information which they receive in connection with the PUC and the conclusion of contracts on the PRISMA Platform (hereafter named "Confidential Information") and agree not to disclose this information to any third party unless the affected parties of the PUC have previously authorised such action in written form. It is understood that information already known by the parties of the PUC receiving the information at the time of receipt and which was legally acquired is not Confidential Information.
3. The parties of the PUC are obliged to use the Confidential Information exclusively for the purpose of fulfilling the aims of this agreement.
4. The parties of the PUC have, in the following situations, the right to disclose Confidential Information received from the other contractual party without their prior written authorisation:
  - 4.1. to Affiliated Companies, provided that such disclosure is required for the proper execution of the obligations contained in the PUC by the disclosing party. In such case, the disclosing parties of the PUC shall ensure that their Affiliated Company shall treat the information received as confidential;
  - 4.2. to their representatives, advisors, banks and insurance agencies in the case that the disclosure is necessary for the proper execution of contractual agreements and as long as these persons, companies or agencies have committed themselves to treating the information confidentially or are legally obligated to maintain secrecy as a result of their profession;

- 4.3. to any third party to the extent that this Confidential Information:
  - a. is already publicly available or has been made available to the public in a way that is not influenced by the actions of the receiving parties of the PUC; or,
  - b. must be disclosed by a customer and/or the parties of the PUC because of a legal requirement or binding decision from a public authority or court. In such cases the parties of the PUC disclosing the information are obliged to inform the affected parties of the PUC immediately of the disclosure.
- 4.4. and/or if the respective data are aggregated and anonymous.
5. The obligation to confidentiality ends 5 years after the termination of the PUC if not defined differently in specific terms and conditions.

#### **Article 20: Language and severability clause**

1. Only and exclusively the English version of this PUC is legally binding. Any other versions of the PUC created in a language other than English are for convenience and only meant to serve as a source of information. If there is any contradiction between versions of the PUC, the English language version shall take precedence.
2. Should individual provisions of the PUC or its amendments be or become ineffective or unenforceable, all other parts of the PUC and its amendments remain unaffected. If any provision is declared to be legally invalid or unenforceable, then the invalid or unenforceable provision shall be replaced by a valid, enforceable provision that most closely matches the economic purpose of the original provision. The same shall apply if the conditions are found to contain omissions.

#### **Article 21: Place of jurisdiction and applicable law**

1. The PUC shall be governed exclusively by German laws excluding the referring rules of private international law. The UN Convention on Contracts for the International Sale of Goods is expressly excluded and shall in no case apply.
2. The exclusive place of jurisdiction for all legal disputes arising from or in connection with the PUC shall be Leipzig, Germany.