

Customer Data Requirements

Creating power forecasts is a statistical process that hinges on the quality of the data that is fed into the forecasting system, during both setup and ongoing operations. Thus, the delivery of the Services by enercast depends on Customer's cooperation in order to obtain such necessary data as set forth in the Documentation.

In particular, for each Asset (e. g. wind or solar plant, park, metering point or pooling station) for which a forecast is to be calculated, Customer needs to provide the following master data and operating data in the format prescribed by enercast:

Master Data

- Designation;
- Geographical coordinates (longitude and latitude) in decimal degrees (World Geodetic System 1984 WGS84);
- For wind assets:
 - Wind turbine manufacturer and model;
 - Wind turbine hub height and the rotor diameter measured from ground level in meters;
 - Nameplate capacity of the installed and operating wind turbines in kW;
- For solar assets:
 - The azimuth of solar panels in degrees, with 0° = south and going clockwise (values bigger than 180° can also be stated as negative values);
 - The tilt of the solar panels in degrees, with 0° = horizontal with the panels facing the sky, maximum 90° = vertical;
 - Construction type: fixed tilt, seasonal tilt (timing and angles of seasonal tilt adjustments required), tracker (tracker type and parameters are required);
 - Nameplate capacity of the installed and operating solar panels according to standard test conditions (IEC 61215, IEC 61646, and UL 1703) at 25°C, 1000W/m² and 35° in kWp (DC power);
 - Inverter capacity in kW (AC power);
- Any applicable power limitations (caps) at site or pooling station level.

Operating Data

- Historical, clean power generation data (meter data) for a minimum of 6 months (preferred 3 years);
- Historical changes in available capacities for the same period, including maintenances;
- Current power generation data (meter data) as used by Customer for quality assessment, delivered at least weekly, or as real-time data in case of the real-time option being used;
- Upcoming reductions of available capacities, including maintenance messages, as soon as they are known.

All operating data must be unambiguously mappable to the Asset it pertains to.

User Data

- At least one e-mail address where Customer will receive important information about the system operation and any required Customer actions, which Customer shall submit and keep up-to-date at all times in its enercast Account.

General

- Data can be delivered by system-to-system communication (API) as specified in the enercast Documentation, or through the enercast Portal by manual entry or file upload.
- Any changes to the Master Data have to be communicated promptly to enercast, through any of the methods above.
- If initial setup is handled by enercast Support, all data must be available to enercast at least 4 weeks prior to the Service Start Date.
- For more details regarding data formats and requirements, please refer to the information in the enercast Portal.

enercast Terms of Use

A General Terms

1 Scope and Acceptance of Agreement

1.1 These Terms of Use govern the use and, if applicable, acquisition of enercast Services, including any Free Trial or Free Services for which Customer might have registered.

1.2 Capitalized terms have the definitions set forth herein.

1.3 By accepting these Terms of Use, whether by (i) clicking a box indicating acceptance, (ii) executing an Order Form or other contract that references these Terms of Use, or (iii) accessing or using the Services in any form, Customer agrees to these Terms of Use and enters into an Agreement between Customer and enercast.

1.4 If the individual accepting these Terms of Use is accepting on behalf of a third party, company or other legal entity, such individual represents that they have the authority to bind such entity and its Affiliates to these Terms of Use and that they are an authorized User, in which case the term “Customer” shall refer to such entity and its Affiliates. If the individual accepting these Terms of Use does not have such authority, or does not agree with these Terms of Use, such individual must not accept these Terms of Use and may not use the Services.

1.5 There shall be no force or effect to any different terms and conditions stated in a Customer’s purchase order, unless included in a mutually signed Order Form, even if enercast does not expressly reject them.

2 Definitions

“Account” means an online account protected by a user-name and password that enercast provides to Customer in order to access and control the purchased Services in accordance with this Agreement.

“Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“Agreement” means the present service agreement concluded between Customer and enercast in accordance with Section 1.3.

“Asset” means a generator, plant, park, cluster, metering point, pooling station or other site for which Customer Data or enercast Data can be provided.

“Customer” means the individual or the legal entity and its Affiliates, as the case may be, receiving Services from enercast under this Agreement.

“Customer Data” means electronic data and information submitted by or for Customer to the Services.

“Data Quota” means a set amount of quantifiable enercast Data that Customer can obtain under this Agreement, such as a backcast or historical weather parameter for a single site.

“Data Stream” means a recurring transmission of enercast Data or Customer Data configured in the Account, counted separately for each Asset and each delivery channel, including the enercast Portal. For example, the recurring delivery of one day-ahead forecast for one Asset plus one day-ahead forecast, one intraday forecast and one weather parameter for a second Asset plus the import of live meter data for one of the Assets constitute a total of five Data Streams. The total number of Data Streams for purposes of any subscription purchased under this Agreement is the total for one Account or one Customer, whichever is larger.

“Documentation” means the applicable Service’s documentation, and its usage guides and policies, such as the Customer Data Requirements, as updated from time to time, and available in writing or via login to the Account.

“enercast” means enercast GmbH and its Affiliates.

“enercast Data” means electronic data and information transmitted by enercast to Customer as part of the Services, including information obtained by enercast from publicly available sources or third-party content providers and made available to Customer through the Services.

“Order Form” means a form included in the Agreement or filled in online specifying the Services to be provided hereunder that is entered into between Customer and enercast or its authorized sales partner. The use of additional quantities of Services by Customer, such as by updating Master Data through the enercast portal, has the same effect as an Order Form. An Affiliate entering into an Order Form hereunder agrees to be bound by the terms of the Agreement as if it were an original party hereto.

“Services” means the products and services that are ordered by Customer under an Order Form or provided to Customer on a trial basis or otherwise free of charge (as applicable) and made available online by enercast as described in the Documentation, including any software, documentation or data related to or used in the provisioning of the Services.

“User” means, in the case of an individual accepting these Terms of Use on his or her own behalf, such individual, or, in the case of an individual accepting these Terms of Use on behalf of a third-party, company or other legal entity, any individual who is authorized by Customer to use a Service, for whom Customer has purchased a subscription or for whom a Service has been provisioned, and to whom Customer (or, when applicable, enercast at Customer’s request) has supplied an account (for Services utilizing authentication).

3 Provisioning of Services

3.1 The Services are provided on a remote basis. enercast will use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for (a) planned downtime (of which enercast shall give advance notice), (b) circumstances beyond enercast's reasonable control, (c) Free Services or free trials.

3.2 enercast will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by enercast personnel except (a) to provide the Services and prevent or address service or technical problems, (b) as compelled by law, or (c) as Customer expressly permit in writing.

3.3 The Services may be updated and/or modified from time to time at enercast's sole discretion. If enercast provides any updates, upgrades, modifications or enhancements to the Services ("Updates") in connection with the Agreement (including as part of its support services) such Updates shall be deemed part of the Services, as applicable, and subject to the terms and conditions of the Agreement.

3.4 enercast shall have no obligation to retain any Customer Data or other information beyond the end of the Service Period.

4 Use of Services

4.1 As part of the registration process, Customer will be assigned a username and initial password for Customer's Account. By accessing the Account, Customer obtains access to the Services he is entitled to.

4.2 Customer is entitled to use the Services and ener-cast Data only for the business purpose and, if applicable, within the department set forth in the Agreement and/or the underlying proposal. Customer will not sell, rent, share, transfer, publish, distribute or otherwise relinquish any ener-cast Data for remuneration or free of charge, permanently or temporarily, partially or as a whole, except with the prior written agreement of ener-cast.

4.3 Customer will not, directly or indirectly: (a) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services; (b) modify, translate, or create derivative works based on the Services; (c) copy, rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Services; (d) use the Services for timesharing or service bureau purposes or otherwise for the benefit of a third party; or (e) remove any proprietary notices or labels from any part of the Services.

4.4 No license to any software is granted. ener-cast and its licensors, respectively, retain sole and exclusive ownership of the Services, including all intellectual property rights embodied therein. No rights are granted to Customer other than as expressly set forth herein.

4.5 The Services may not be accessed for purposes of monitoring their availability, performance or functionality, for any other benchmarking or competitive purposes, or by direct competitors of ener-cast, except with ener-cast's prior written consent.

4.6 Customer shall be responsible for all activity occurring on its Accounts and shall, at its own expense, as necessary obtain, operate and maintain any equipment, third-party software and/or ancillary services needed to connect to, access or otherwise use the Services (collectively, "Equipment"). Customer shall maintain the Equipment in accordance with any specifications set forth in ener-cast's Documentation then in effect. All third-party costs resulting from Customer's utilization of the Services or any third-party software or services shall be Customer's responsibility.

4.7 Customer shall be responsible for the accuracy, quality and legality of Customer Data. In particular, Customer shall comply with the obligations set forth in this Agreement and the Documentation. Customer grants ener-cast a license to process, copy, transmit and display Customer Data as necessary for ener-cast to provide the Services in accordance with the Agreement, and to analyze and process the data in anonymized form and without disclosing it to third parties in order to improve Services for Customer and other Users.

4.8 Customer shall be responsible for maintaining the secrecy of the access data to his Account or other such credentials. Customer shall not grant access to its Account to others than Users performing tasks within the business purpose set forth in the Agreement and/or the underlying proposal. In the event of the loss or suspected abuse of the credentials, Customer will promptly notify ener-cast at support@ener-cast.de.

4.9 Customer shall comply with all applicable export laws, restrictions and regulations in connection with Customer's use of the Services.

4.10 ener-cast will not be liable for any failure to provide Services or for any degradation of ener-cast Data that is caused by Customer's failure to comply with this Article 4.

5 Disclosure of Customer Information

5.1 Its confidentiality obligations under this Agreement or other contracts notwithstanding, ener-cast may (i) disclose any Customer Data to the extent such disclosure is compelled by order of any governmental authority or otherwise required by law or (ii) use any Customer Data or other information relating to the Services for any purpose in a de-identified, aggregated form or for ener-cast's development, operations, diagnostic and corrective purposes in any form.

5.2 ener-cast may include Customer's name and logo in the published list of ener-cast customers. Any other use or disclosure of additional details is subject to Customer's prior approval.

6 Warranty Disclaimer

6.1 THE SERVICES ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND. ENERCAST MAKES NO REPRESENTATIONS TO THE CONTRARY, NEITHER THROUGH ITS BROCHURES, WEBSITES OR OTHER PROMOTIONAL MATERIALS NOR BY ITS EMPLOYEES.

6.2 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ENERCAST EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. ENERCAST DOES NOT WARRANT THAT THE SERVICES WILL BE PROVIDED UNINTERRUPTED OR ERROR-FREE OR THAT ANY PARTICULAR RESULTS MAY BE OBTAINED FROM ANY USE OF THE SERVICES. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES ARE SUBJECT TO PERIODIC DOWNTIME FOR MAINTENANCE, REPAIRS AND UPDATES. CUSTOMER ACKNOWLEDGES AND AGREES THAT DURING SUCH DOWNTIME, SOME OR ALL OF THE FEATURES OF THE SERVICES MAY NOT BE AVAILABLE. TO THE EXTENT THAT THE LAW APPLICABLE TO THE CUSTOMER DOES NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR GUARANTEES, THE ABOVE EXCLUSIONS SHALL NOT APPLY TO THE CUSTOMER.

7 Miscellaneous

7.1 Each party represents and warrants that the fulfillment of its obligations hereunder will not violate any laws, rules or regulations applicable to such party or conflict with any contractual obligation it may have to any third party.

7.2 The Agreement and its attachments represent the entire agreement between the parties regarding the subject matter set forth herein. The Agreement supersedes all previous oral or written communications between the parties regarding the subject matter set forth herein, and it may not be modified or waived except in writing and signed by an officer or other authorized representative of each party.

7.3 If any provision of this Agreement is held invalid, all other provisions shall remain in full force and effect, unless such invalidity would frustrate the purpose of this Agreement.

7.4 The laws of the Federal Republic of Germany shall govern this Agreement without consideration to any conflicts of law provisions of such jurisdictions and to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

7.5 Neither party may assign any of its rights or obligations under the Agreement, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. Subject to the foregoing, this Agreement will bind and inure to the benefit of any successors or assigns.

7.6 The waiver of one breach or default shall not constitute the waiver of any subsequent breach or default and shall not be construed to amend or negate the rights of any party.

7.7 No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind enercast in any respect whatsoever.

B Commercial Terms

8 Applicability

The provisions of this Chapter B do not apply to Customers who (i) have concluded an individual, written agreement with enercast, in as far as such agreement is in conflict with the provision in this Chapter B, or (ii) have obtained the Services by way of an agreement with an authorized sales partner of enercast.

9 enercast Responsibilities

9.1 Subject to the terms and conditions of the Agreement, enercast will provide the Services listed in the Order Form and the related enercast Data.

9.2 enercast will provide the Services in substantial conformance with the applicable release notes during the applicable Service Period. In the event the Services fail to so conform, enercast will, as its sole obligation and Customer's sole remedy, use commercially reasonable efforts to correct such nonconformance. If enercast determines in its sole discretion that the foregoing remedy is not commercially feasible, it may, at its option, terminate the Agreement and refund any prepaid amounts for unused portions of the Service Period.

9.3 Subject to the terms and conditions of the Agreement and to the service level agreement specified in the Order Form, enercast will assist Customer with Customer's use of the then-current Services during enercast's normal business hours as per enercast's applicable support policy. enercast shall not be obligated to provide support services for other than the then-current versions of the Services.

9.4 Customer shall designate a qualified administrator or super user as the single point of contact for all support and assistance provided by enercast under Section 9.3.

10 Free Trial and Free Services

10.1 If Customer registers for a free trial, enercast will make one or more Services available to Customer on a trial basis free of charge, subject to the terms and conditions of this Agreement, until the earlier of (a) the end of the free trial period for which Customer registered to use the applicable Service(s), or (b) the Service Start Date of the Customer's paid subscriptions for such Service(s), or (c) termination by enercast in enercast's sole discretion ("Free Trial"). Additional trial terms and conditions may appear on the registration web page for the Free Trial. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

10.2 enercast may make Services available to Customer free of charge ("Free Services"), subject to the terms and conditions of this Agreement. In the event of a conflict between this Section 10.2 and any other portion of this Agreement, this section shall control. Free Services may be provided to Customer without charge up to certain limits as described in the Documentation. Usage over these limits requires Customer's purchase of additional resources or services. Customer agrees that enercast, in its sole discretion and for any or no reason, may terminate

Customer's access to the Free Services or any part thereof, that any termination of Customer's access to the Free Services may be without prior notice, and that enercast will not be liable to Customer or any third party for such termination.

10.3 Customer is solely responsible for exporting Customer Data from a free trial or Free Services prior to termination of Customer's access for any reason, provided that if enercast terminates Customer's Account, except as required by law, enercast will provide Customer a reasonable opportunity to retrieve Customer Data.

10.4 Articles 6, 9, 13 and 14 notwithstanding, Services provided during a free trial or as Free Services are provided "as is", without any warranty, and enercast shall have no indemnification obligations with respect to those Services. Section 9.3 notwithstanding, Customer is not entitled to assistance regarding a free trial or Free Services.

10.5 During a free trial, enercast Data may not be used for any commercial purpose other than evaluating the quality of Services and enercast Data.

11 Payment of Fees

11.1 Customer will pay enercast the fees for the Services as set forth in the Order Form (the "Fees").

11.2 Upon not less than forty-five (45) days prior written notice to Customer, enercast may change its then-current Fees based on its price list or other reasonable determination. The new price will take effect at the commencement of any Renewal Period.

11.3 Customer will pay all monthly Fees in advance prior to the beginning of each Service Period (as defined in Article 12) for which such fees apply, unless stated otherwise in the Order Form. Customer will pay a pro-rated portion of the applicable monthly Fees for any partial months in which Services are provided. If Customer provides credit card information to enercast, Customer authorizes enercast to charge such credit card for all Fees when they become due. Otherwise, enercast will invoice Customer for all Fees due hereunder, and full payment for such Fees, free of taxes, duties and other charges, must be received by enercast not later than fifteen (15) days after the mailing date of the first invoice on which such Fees appear. If enercast agrees to make invoices available electronically through means provided by the Customer, the due date is calculated from the date that enercast first attempted to deliver the invoice, whether or not it was received by the Customer.

11.4 Customer shall be responsible for all taxes associated with the Services, including taxes withheld at the source, other than taxes based on enercast's net income. The payment is to be remitted electronically, free of taxes, duties, bank fees or other charges, into the bank account designated by enercast.

11.5 Unpaid Fees not subject to a good faith dispute are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection. If any amount owing by Customer under this Agreement for Services is 30 or more days overdue, enercast may, without

limiting its other rights and remedies, accelerate Customer's unpaid Fee obligations under this Agreement so that all such obligations become immediately due and payable, and suspend the Services until such amounts have been paid in full. enercast will give Customer as least 10 days' prior notice before suspending Services.

11.6 Customer must notify enercast in writing of any disputed invoices within sixty (60) days after the first invoice in which the disputed amount(s) appeared in order to receive any adjustment or credit that is due.

11.7 Customer agrees that payment of Fees is not contingent on the delivery of any future functionality or features.

12 Term; Termination

12.1 The Agreement commences on the Order Date. The Services shall begin on or about the Service Start Date and continue for 12 months or such time as specified in the Order Form (the "Initial Service Period"), unless the Agreement is terminated earlier as provided in Sections 9.2, 12.4 or 14.2. Unless otherwise specified in the Order Form, the Order Date is the date that the Order Form is received by enercast, and the Service Start Date is equal to the Order Date.

12.2 The Agreement will automatically renew for successive renewal periods of 12 months or such time specified in the Order Form (each such period, a "Renewal Period"; Initial Service Period and Renewal Period collectively the "Service Period") unless either party notifies the other party in writing of its intent to not renew this Agreement or to discontinue individual Services at least ninety (90) days prior to the end of the then-current Service Period, as applicable, or no more than thirty (30) days after receipt by Customer of a price increase notice according to Section 11.2, whatever is later.

12.3 The Initial Service Period for Services set forth in any subsequent Order Form submitted under an existing Agreement shall run until the end of the then-current Service Period, or such time as specified in the Order Form.

12.4 In addition to any other remedies it may have at law or in equity, either party may terminate the Agreement at any time upon thirty (30) days' notice (ten (10) days in the case of nonpayment), if the other party breaches any of the terms or conditions of the Agreement. In the event of such termination, Customer owes the full Fees for the Services up to and including the last day on which the Services are provided as well as any Fees for the actual use of any agreed Data Quota in excess of their pro rata temporis value. Any unused pre-paid fees will be refunded by enercast no later than fifteen (15) days after the effective date of the termination.

12.5 Upon any termination of this Agreement, neither party shall have any further obligation to the other; provided however, that the following provisions of this Agreement shall survive: Sections 4.6 (last sentence only), 4.10, this Section 12.5, Articles 5, 6, 13, 14, 15 (for the three (3) year period specified therein), 16 and 17 as well as any accrued payment obligations and any remedies for breach of this Agreement.

12.6 No credit shall be issued for Services or Data Quotas that Customer has not exhausted by the last day on which the Services are provided.

13 Limitation of Liability

13.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ENERCAST AND ITS OFFICERS, EMPLOYEES, DIRECTORS, AFFILIATES, REPRESENTATIVES, CONTRACTORS, SUPPLIERS, AND LICENSORS SHALL NOT BE LIABLE TO CUSTOMER UNDER ANY CAUSE OF ACTION WHATSOEVER WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT FOR ANY: (A) LOSS OF BUSINESS, PROFIT OR SAVINGS; (B) LOSS, INACCURACY OR CORRUPTION OF DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; OR (E) MATTER BEYOND ENERCAST'S REASONABLE CONTROL, IN EACH CASE, EVEN IF ENERCAST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OF INCIDENTAL AND CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO CUSTOMER.

13.2 ENERCAST'S MAXIMUM AGGREGATE LIABILITY TO THE CUSTOMER FOR ANY AND ALL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SUBJECT MATTER OF THIS AGREEMENT SHALL IN NO EVENT EXCEED TWELVE (12) TIMES THE MONTHLY FEES SET OUT IN THE ORDER FORM.

13.3 THE LIMITATIONS SET OUT IN SECTIONS 13.1 AND 13.2 SHALL NOT APPLY TO ENERCAST'S OBLIGATIONS TO INDEMNIFY UNDER THIS AGREEMENT OR ANY BREACH OF ARTICLE 15 OR TO INTENTIONAL OR GROSSLY NEGLIGENT ACTS OR TO GUARANTEES GIVEN.

14 Indemnification

14.1 enercast agrees to (a) defend Customer against any claims, suits, allegations or other proceedings ("Claims") brought against Customer by any third parties and (b) indemnify Customer for any damages, losses, liabilities, settlement amounts and expenses (including without limitation attorneys' fees and costs) payable to such third parties in connection with such Claims, in each case to the extent any such Claims arise out of or relate to (i) any breach of enercast's representations or warranties hereunder or (ii) any claim that any part of the Services infringes or misappropriates any patent, trademark, or trade secret rights of such third parties.

14.2 If Customer's use of the Services becomes, or in enercast's sole opinion is likely to become, subject to a third party infringement Claim, enercast shall have the right to modify the relevant Services (without any material loss of functionality) so that they become non-infringing; provided, however, that if enercast determines in its sole discretion that such modification is not commercially feasible, enercast shall have the right to terminate this Agreement and promptly refund to Customer any prepaid Fees for any unused portions of the Service Period. Notwithstanding anything to the contrary, enercast shall have no obligation to defend or indemnify Customer for

any Claims subject to indemnification by Customer or resulting from any: (i) breach by Customer of any of its obligations under this Agreement; (ii) use of the Services other than in accordance with applicable Documentation provided by enercast; (iii) continued use of allegedly infringing Services after becoming aware of such infringement; (iv) any use or combination of the Services with any services or software not approved by enercast, where such Claim would have been avoided but for such use or combination; or (v) use of other than the then-current version of the applicable Services made available to Customer hereunder.

14.3 Customer agrees to (a) defend enercast and its licensors against any Claims brought against enercast by third parties and (b) indemnify enercast and its licensors for any damages, losses, liabilities, settlement amounts and expenses (including without limitation attorneys' fees and costs) payable to such third parties in connection with such Claims, in each case to the extent any such Claims arise out of or relate to any breach of Customer's representations or warranties hereunder.

14.4 Any obligation of either party to defend and indemnify the other party shall be conditioned on the party seeking indemnification giving the indemnifying party (a) prompt written notice of any Claims for which indemnification is sought and (b) sole control over the defense and/or settlement of any such Claims. The indemnifying party shall not enter into any settlement of any Claims without the indemnified party's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

15 Confidentiality

15.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose non-public, proprietary information relating to the Disclosing Party's business, including Customer Data, enercast Data, the Agreement and the preceding proposal (hereinafter referred to as "Proprietary Information" of the Disclosing Party).

15.2 The Receiving Party agrees that it will use or disclose such Proprietary Information only for the purpose of performing its obligations or exercising its rights under this Agreement (and for no other purpose or its own benefit) and to take reasonable precautions to protect such Proprietary Information from unauthorized use or disclosure.

15.3 The Disclosing Party agrees that the foregoing restrictions shall not apply with respect to any information after three (3) years from the date such information was first disclosed hereunder or to any information that the Receiving Party can document (a) is or becomes generally available to the public (other than as a result of its breach of this Agreement), (b) was in its possession or known by it prior to disclosure by the Disclosing Party, (c) was rightfully disclosed to it by a third party, or (d) it was compelled by order of any governmental authority or otherwise required by law to disclose, but in each case only to the extent required and for the purpose of such disclosure.

16 Dispute Resolution

16.1 All disputes arising out of or in connection with the present agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with the said Rules. Governing law is the law of the Federal Republic of Germany. Place of arbitration is Frankfurt, Germany, and the language of the arbitration proceedings is English, unless the Parties agree otherwise. The Emergency Arbitrator Provisions shall not apply.

16.2 The parties shall pay their own costs and attorneys' fees associated with the arbitration.

17 Notices

17.1 Notices under the Agreement must be sent by registered or certified mail or overnight courier service to the appropriate party at its address stated in the Order Form (or to a new address, respectively, if the other has been properly notified of the change). A notice will not be effective until the addressee actually receives it.

17.2 Section 17.1 notwithstanding, notices will also be effective if they are transmitted in electronic form, particularly by e-mail, provided that their receipt is acknowledged by the other party in the same form.