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EFET TTF APPENDIX GUIDANCE NOTES

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1. Introduction

What is TTF?

TTF stands for Title Transfer Facility. It is a notional entry/exit point located within the Dutch national gas transmission system operated by Gas Transport Services B.V. ("GTS") at which natural gas can be bought or sold.

Like the National Balancing Point ("NBP") in the UK, buying or selling natural gas at the TTF does not alter the total amount or quality of natural gas in the Dutch national gas transmission system as it will not introduce any new natural gas or take away any existing natural gas from the system.

Unlike the NBP, in order to access the TTF, a trader has to notionally exit its natural gas from the Dutch national gas transmission system and enter it into the TTF; and in order to transport natural gas acquired at the TTF out of the Dutch national gas transmission system, a trader has to notionally exit the natural gas so acquired from the TTF and re-enter the natural gas so acquired back into the Dutch national gas transmission system. The trader must then book exit capacity and exit the natural gas through one of the other physical entry/exit points in the Dutch national gas transmission system.

Parties transacting at the TTF can trade any one of 4 specified Wobbe labels – H, L, G and G+, and can also trade Wobbe label H at the Eurohub. However, the EFET TTF Appendix does not contemplate and has not been drafted for trades at the Eurohub. A Wobbe label is an indication of the chemical composition of the natural gas that is subject to the transaction which relates to its combustibility.

Who can trade at TTF?

There are two conditions to be fulfilled for trading at TTF. The trader must:

1. be an Admissible Party; and
2. have signed up to the Title Transfer Registration Service.

With respect to the first condition, an Admissible Party is a trader that:

- a) has accepted the Transmission Service Conditions (“TSC”) as published from time to time by GTS as operator of the Dutch national gas transmission system;
- b) has satisfied GTS as to its creditworthiness in accordance with the provisions of the TSC then in force;
- c) has been assigned a shipper code by GTS after passing a communication test; and
- d) will in all respects perform as a Reasonable and Prudent Operator with due regard to the integrity of the Dutch national gas transmission system and the interests of other Admissible Parties in accordance with and as defined by the TSC then in force.

With respect to the second condition, a trader can sign-up to the Title Transfer Registration Service via a “contract data sheet” (as defined in the TSC then in force) for a period of 12 or more calendar months. The fee for the Title Transfer Registration Service is comprised of a fixed fee element as well as a variable fee element based on the quantity of natural gas traded irrespective of whether that natural gas is bought or sold.

2. The EFET TTF Appendix

Clause 1:

Clause 1 incorporates defined terms used in the TSC then in force for the purposes of the TTF Appendix. It also states that references to any particular article or provision of the TSC shall be read as references to such article or provision as renumbered or re-referenced from time to time.

This clause also identifies GTS or any of its successors as the relevant Network Operator for the purposes of TTF Transactions under the EFET General Agreement for the delivery and acceptance of natural gas (the “**EFET Gas General Agreement**”). This becomes relevant, for example, under § 4.1(b) of the EFET Gas General Agreement in respect of net scheduling obligations.

Clause 2:

Clause 2 states that the TTF Appendix applies to all TTF Transactions under the EFET Gas General Agreement, unless the Parties expressly agree otherwise.

Furthermore, if there is an inconsistency between the provisions of the EFET Gas General Agreement and the TTF Appendix, then the relevant provisions of the TTF Appendix shall prevail for the purposes of all TTF Transactions. If there is an inconsistency between the provisions of a particular TTF Transaction and the TTF Appendix, then the relevant provisions of the TTF Transaction shall prevail for the purpose of that particular TTF Transaction.

Clause 3:

Clause 3 expressly states that the special forms of Confirmation attached to the TTF Appendix as Annexes 2 TTF (A) – 2 TTF (D) should be used for the purposes of TTF Transactions.

There is a form of Confirmation each for a fixed price TTF Transaction, a floating price TTF Transaction, a call option TTF Transaction and a put option TTF Transaction. These forms mirror the general forms of Confirmation attached to the EFET Gas General Agreement as Annexes 2A – 2 D but have certain terms which are specific to the nature of TTF Transactions. For example, the forms:

1. make it compulsory to specify a Wobbe label for each TTF Transaction;
2. define a TTF Transaction as an “Intra-System” trade (as already mentioned in the Introduction, this is because the TTF is located within the Dutch national gas transmission system and trades at the TTF do not involve more than one system);
3. define the Relevant System (being a term used in the EFET Gas General Agreement) as the GTS transmission grid (i.e. the Dutch national gas transmission system);
4. identify the Time Unit for a TTF Transaction as one hour (because this is the time unit, according to the current version of the TSC, which GTS uses to balance the Dutch national gas transmission grid and in respect of which GTS requires nominations/renominations to be made); and
5. state that the tolerance shall be zero (which is necessary as nominations need to be made up to 2 decimal points and imbalance charges are very high if there is a mismatch).¹

Clause 4:

Clause 4 clarifies further the meaning of “Schedule” as that term is used in the EFET Gas General Agreement. It makes clear that a Party will only be considered to have “Scheduled” properly if it has complied with all relevant obligations and requirements in the TSC and in the Operating Manual to the TSC. This means that a Party to the EFET Gas General Agreement and TTF Appendix will have to be an Admissible Party, have signed-up to the Title Transfer Registration Service under the TSC then in force and must follow the nomination/re-nomination procedure and timelines set out in the TSC then in force in order to fulfil its contractual obligations to “Schedule” in respect of a TTF Transaction.

¹ Clause 7.3 also explicitly states this requirement.

This clause also makes it a requirement on both Parties entering into a TTF Transaction to specify the Wobbe label that is to apply to the natural gas which is the subject of that TTF Transaction.

Clause 5:

Under the TSC, GTS is under no obligation to issue allocation statements in respect of a trade done at TTF. Instead, the TSC Exhibit G states that the last confirmation issued by GTS to both parties to a TTF trade shall be used by GTS for the purposes of allocating quantities of natural gas between them. The TSC Exhibit G also states that GTS shall issue the confirmation at the very latest at the beginning of the calendar hour to which the TTF trade relates.

Clause 6:

The TTF is a notional point within the Dutch national gas transmission system (see Introduction above). Consequently interruptions or curtailments on the upstream or downstream system do not affect the tradeability of gas in the system and therefore should not qualify as events of Force Majeure. Furthermore, a trader at TTF can always go long or short in its own portfolio of natural gas with GTS in order to keep a trade at TTF whole. Therefore, apart from certain emergency situations which would constitute Force Majeure events affecting the whole Dutch national gas transmission system, no curtailment or interruption of transportation rights or problems, occurrences or events affecting any pipeline system should constitute Force Majeure for the purposes of TTF Transactions. This is the reason for deleting references to Transportation Failure.

The only other possible Force Majeure event likely to be relevant for TTF Transactions is a failure in the communication/computer systems by which nominations, matches and confirmations are made and sent.

In addition to the above limitation of the Force Majeure definition in the EFET Gas General Agreement a further amendment to this definition has been made in paragraph 2: As in the TSC GTS has reserved for itself the right to constrain deliveries at TTF in situations which may or may not constitute Force Majeure events affecting the Dutch national gas transmission system, EFET members considered it necessary to explicitly include such event as a Force Majeure event.

Clause 7.1:

In case of a failure to deliver or accept natural gas at the TTF GTS will in most cases and automatically balance a party's portfolio by providing balancing services. Therefore the EFET members have decided to explicitly refer to the compensation based on the amount of loss suffered by the non-defaulting party as charged by GTS to that party for balancing its portfolio as a result of the defaulting party's failure to deliver/accept rather than using the more general market based compensation mechanisms contained in the EFET General agreement at §§ 8.1 to 8.4.

However, in the current version of the TSC, GTS has reserved for itself the right to choose not to balance an Admissible Party's portfolio (e.g. if the temperature in winter falls below a certain temperature). If this were to occur, the non-defaulting party's portfolio of natural gas in the Dutch national gas transmission system would not be balanced by GTS and the non-defaulting party would not be charged by GTS. It would therefore be more difficult to ascertain the actual loss suffered by the non-defaulting party. In such a situation, the EFET members have agreed to revert to the normal market-based compensation mechanisms which

allow the non-defaulting party a certain element of discretion in determining the actual amount of its loss within the bounds of commercial reasonableness.

Assuming that GTS does balance a non-defaulting party's portfolio the compensation mechanism will work as follows:

1. Clause 7.1(a):

In the case of Underdelivery, the Buyer will be short in its portfolio with GTS as result of the Seller's default. The Buyer will be charged Balancing Charges for GTS having to make up the shortage. As the Buyer will not have had to pay the Seller for the Default Quantity that has not been delivered, the compensation due to the Buyer will be the total of the Balancing Charges payable to GTS minus the product of the Default Quantity and the Contract Price.

2. Clause 7.1(b):

In the case of Under Acceptance, the Seller will be long in its portfolio with GTS as a result of the Buyer's default. The Seller will be charged Balancing Charges for GTS having to balance its portfolio. In addition, the Seller will not have received the full amount of money it was expecting from the trade because the Buyer will not have to pay the Seller for the Default Quantity that it should have accepted but failed to do so. In balancing the Seller's portfolio, GTS will buy up the length in the Seller's portfolio and pay the Seller Balancing Compensation in respect of this length. Therefore, the compensation due to the Seller is the total of the Balancing Charges payable to GTS plus the product of the Default Quantity and the Contract Price minus the Balancing Compensation payable by GTS to the Seller.

3. Clause 7.1(c):

In the case of Overdelivery, the Buyer will be long in its portfolio with GTS as a result of the Seller's default. The Buyer will be charged Balancing Charges by GTS for having to balance its portfolio. In addition, the Buyer will have to pay more than it was expecting for the trade because it will have to pay the Seller for the extra amount of the Default Quantity that the Seller has delivered in breach. However, in balancing the Buyer's portfolio, GTS will buy the length in the Buyer's portfolio and pay the Buyer Balancing Compensation in respect of that length. Therefore, the compensation due to the Buyer is the total of the Balancing Charges payable to GTS plus the product of the Default Quantity and the Contract Price minus the Balancing Compensation payable by GTS to the Buyer.

4. Clause 7.1(d):

In the case of Over Acceptance, the Seller will be short in its portfolio as a result of the Buyer's default. The Seller will be charged Balancing Charges by GTS for having to make up the shortage. As the Seller will have received more than it was expecting from the trade because the Buyer will have to pay for the extra amount of the Default Quantity it has accepted in breach, the compensation due to the Seller will be equal to the total of the Balancing Charges payable to GTS minus the product of the Default Quantity and the Contract Price.

Clause 7.2:

Article 6.1.6 of the TSC provides that GTS may recover certain imbalance charges due from an Admissible Party which has had its right to use the Title Transfer Registration

Service suspended from other Admissible Parties trading with such counterparty at TTF. The provision provides that GTS may do this if this if either:

1. GTS has insufficient security from that Admissible Party; or
2. GTS otherwise reasonably expects that these imbalance charges may not be paid on time.

Effectively, this is a method by which GTS attempts to pass the credit risk of a particular Admissible Party to other Admissible Parties trading at TTF. Although the EFET members contests the validity and enforceability of such provision it was felt advisable to include in the TTF annex the possibility to recover such charges from the defaulting party through an indemnity mechanism. Failure to pay under this indemnity will amount to a Material Reason under the EFET Gas General Agreement entitling the Party with the benefit of the indemnity to terminate all Individual Contracts under the EFET Gas General Agreement using §10.5(a). The indemnity is worded so as to survive the expiration or termination of the EFET Gas General Agreement.

Clause 8:

As mentioned in the Introduction, trading at TTF does not alter the amount or nature of natural gas in the Dutch national transmission grid. The TSC specifically states that natural gas at TTF is deemed to comply with the quality and pressure specifications required under the TSC (i.e. natural gas at TTF is by definition on-spec). Consequently, Clause 8 states that the provisions of § 8a (*Off-Spec Gas*) of the EFET Gas General Agreement shall not apply to TTF Transactions.

Clause 9:

Under Article 6.1.5 of the TSC, GTS has the right to suspend an Admissible Party's use of the Title Transfer Registration Service if GTS has insufficient security from that Admissible Party to cover certain imbalance charges incurred by that Admissible Party related to its trades at TTF or otherwise reasonably expects that these imbalance charges may not be paid on time. If GTS chooses to exercise this right, GTS is obliged to inform all other Admissible Parties signed-up to the Title Transfer Registration Service by prior notice, but the TSC does not specify exactly when the "prior" notice should be given.

Once the Title Transfer Registration Service is suspended against an Admissible Party, it will no longer be able to trade at TTF and nominations made by the suspended Admissible Party's counterparties naming the Admissible Party as the counterparty to trades at TTF will only result in a "zero" confirmation being sent by GTS. The period of the suspension will not generally be known at the outset and could be for a very long time. This creates uncertainty not only for the suspended Admissible Party but also for its counterparties at TTF, all of which will have back to back trading obligations to fulfil. Furthermore, GTS may have exercised the right to suspend for a reason relating to e.g. the creditworthiness of the suspended Admissible Party and, if this is the case, the suspended Admissible Party's counterparties would normally want to limit their exposure and continuing obligations. On the other hand, GTS may have exercised the right to suspend in error and the suspended Admissible Party should be given an opportunity to rectify this with GTS as soon as possible.

Clause 9 tries to deal with all of the above issues in a manner which strikes a balance between the sometimes conflicting concerns of the suspended Admissible Party and its counterparties at TTF.

1. Clause 9A.1:

Clause 9A.1 gives a counterparty of a suspended Admissible Party the right to be released from all of its contractual obligations under all TTF Transactions for a fixed period of seven days. This seven day period is intended to be a grace period during which the suspended Admissible Party can try to have its right to the Title Transfer Registration Service reinstated. The fixed period of seven days is beneficial to both the suspended Admissible Party and its counterparties because even if GTS reinstates the use of the Title Transfer Registration Service to the suspended Admissible Party at some point before the end of the seven-day period, the release of the obligations will still be effective for the full seven-day period and, as a result, each entity will have the benefit of this certainty when entering into alternative deals in the market for the seven-day period to fulfil its back to back trading obligations. Consequently, each entity will not be faced with the prospect of having dual positions in respect of the same obligations if GTS were to suddenly reinstate the Title Transfer Registration Service to the suspended Admissible Party during the seven-day period and, in the meantime, each entity had entered into alternative deals in the market to fulfil those obligations.

Under Clause 9A.1, a counterparty of a suspended Admissible Party also has the right to demand security in respect of all amounts accrued and payable by the suspended Admissible Party (even if not yet due) under the EFET Gas General Agreement and to withhold payments due to the suspended Admissible Party until such security has been received. This provision is intended to limit the exposure of a counterparty of a suspended Admissible Party in case the suspension of the Title Transfer Registration Service has indeed been caused by an adverse credit event affecting the suspended Admissible Party.

2. Clause 9A.2:

Clause 9A.2 makes clear that even if a suspended Admissible Party's counterparty at TTF chooses to release its TTF Transaction contractual obligations under Clause 9A.1, the suspended Admissible Party will still be liable to pay compensation to the counterparty as if it had failed to deliver and/or accept under the TTF Transactions which are not being performed during the seven-day period. This clause is included because, normally, if an entity is entitled to be released from its contractual obligations, then the corresponding obligations of its counterparty would also be released and that counterparty (i.e. the suspended Admissible Party) would not be liable for failing to perform its obligations. The EFET members as a whole therefore agreed that if an entity chooses to exercise its rights under Clause 9A.1 to release its contractual obligations under all TTF Transactions for the seven-day period, it will still be covered for any losses it suffers as if it had not exercised its rights under Clause 9A.1 to release its contractual obligations under all TTF transactions for the seven-day period - i.e. it will still be covered for any losses it suffers if it is unable to enter into alternative trades in the market on as equally advantageous terms as the TTF Transactions affected during the seven-day period.

The rationale behind this wording is to protect counterparties at TTF who choose to exercise their rights under Clause 9A.1 even if this means that a suspended Admissible Party bears the risk of having to pay compensation should GTS have suspended its use of the Title Transfer Registration Service in error.

It should be noted that if a counterparty at TTF chooses **not** to exercise the rights under Clause 9A.1, a suspended Admissible Party would be liable to pay compensation under the normal terms of §8 of the EFET Gas General Agreement anyway.

3. Clause 9A.3:

Whether or not counterparty at TTF chooses to exercise its rights under Clause 9A.1, if GTS has not reinstated the Title Transfer Registration Service to the suspended Admissible Party after the first seven days following notification of the suspension, the counterparty has the additional right to terminate either:

- (a) All TTF Transactions; or
- (b) All Individual Contracts and the EFET Gas General Agreement;

With the Admissible Party under the EFET Gas General Agreement. It should be noted that the Parties to the EFET Gas General Agreement have to choose at the time the TTF Appendix is entered into, which of the above two options will apply and make this election by indicating their choice on the last page of the TTF Appendix. If the parties do not make an election, (a) will apply as a default rule. The Users of the TTF Appendix may consider whether the termination of all Individual Contracts and the EFET General Agreement would be extreme in such event.

The reasoning behind this Clause 9A.3 is to provide the parties with an opportunity to agree the scope of close-out rights that would apply between them at the time that they enter into the TTF Appendix by providing the counterparty of a suspended Admissible Party the ability to terminate either all TTF Transactions only or all Individual Contracts under the EFET Gas General Agreement with the Admissible Party if, at the end of the seven-day period, the counterparty has not become aware that the Admissible Party has managed to resolve its issues with GTS and have its use of the Title Transfer Registration Service reinstated.