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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?

Any trader who has signed up to the Title Transfer Registration Service. This is done by entering into a contract with GTS which incorporates GTS's Transmission Service Conditions ("TSC").

GTS amends the TSC on a yearly - or sometimes twice yearly basis - and a trader has to sign up to the each version of the TSC in order to continue trading the TTF.

2. The EFET TTF Appendix

Clause 1:

Clause 1 incorporates defined terms used in the TSC in force as of July 2006 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 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);
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); and
4. identify the Time Unit for a TTF Transaction as one hour (because this is the time unit which GTS uses to balance the Dutch national gas transmission grid and in respect of which GTS requires nominations/renominations to be made).

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 Procedures to the TSC. This means that a Party to the EFET Gas General Agreement and TTF Appendix will have to 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.

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, Appendix 5 to the TSC (Operating Procedures) 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. Appendix 5 also states that GTS shall issue the confirmation at the very latest before 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). As a notional point, transportation of natural gas to or from the TTF can never normally be interrupted or curtailed, even if transportation to or from other physical parts of the Dutch national gas transmission system is interrupted or curtailed. 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.

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.

The above reasons explain the wording of the first paragraph at Clause 6.

Notwithstanding the above, in the current version of 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, and this is the reason for the second paragraph at Clause 6.

Clause 7.1:

Clause 7.1 is based on a decision taken by the EFET members as a whole that, for the purposes of TTF Transactions, it would contribute to the certainty of the terms of these trades if the parties to them did not rely on the indemnity-based compensation mechanisms contained in the EFET Gas General Agreement at §§ 8.1 to 8.4 for failures to deliver/accept. Instead, the EFET members as a whole preferred to calculate compensation based on the actual charges levied by GTS on the non-defaulting party for balancing its portfolio) as a result of the defaulting party's failure to deliver/accept. The idea was to create a system of objective balancing charges that could be passed up or down trading chains of traders in the same way as objective balancing charges are passed on at other liquid trading hubs e.g. under NBP '97 for the UK NBP and under ZBT '04 for the Belgian ZBT.

However, in the current version of the TSC, GTS has reserved for itself the right to choose not to balance a trader's portfolio. 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. 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 indemnity-based compensation mechanisms contained in the EFET Gas General Agreement at §§ 8.1 to 8.4 which allows the non-defaulting party a certain element of discretion in determining the actual amount of its loss within the bounds of commercial reasonableness.

Assuming however that GTS does balance a non-defaulting party's portfolio:

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 by GTS. The Balancing Charges will consist of payments to GTS by the Buyer to purchase the gas it is short on a daily basis and of penalty charges ("surcharges") levied by GTS in respect of the Buyer's hourly and daily short position. 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 (hourly and daily surcharges) by GTS for having to balance its portfolio. In balancing the Seller's portfolio, GTS will buy up the daily length in the Seller's portfolio and pay the Seller Balancing Compensation in respect of this length. 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. 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 (hourly and daily surcharges) by GTS for having to balance its portfolio. In balancing the Buyer's portfolio, GTS will buy the daily length in the Buyer's portfolio and pay the Buyer Balancing Compensation in respect of that length. 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. 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. The Balancing Charges will consist of payments to GTS by the Buyer to purchase the gas it is short on a daily basis and of surcharges levied by GTS in respect of the Seller's hourly and daily short position. 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.

Notes:

- (1) Over Acceptances and Overdeliveries are not possible under the regime in force as of July 2006 if the parties only nominate once to GTS in respect of particular hour because GTS applies the "lesser rule" to mismatched first nominations. However, they are possible if the parties renominate in respect of an hour as GTS allows the original matched nomination to stand if there are mismatched renominations for an hour. So, if the parties originally nominated, and were matched by GTS, with 100 units in respect of an hour but then renegotiated their deal to 50 units for that hour, they would then both need to submit timely matching renominations to GTS of 50 units. If one party fails in its renomination, GTS will leave the original 100 unit matched nomination standing thus resulting in an Over Acceptance (if the Buyer made the mistake in renominating) or an Overdelivery (if the Seller made the mistake in renominating) on the revised deal of 50 units.
- (2) With effect from gas year 2006 GTS has changed the size of a trader's portfolio tolerance from a standard 2% tolerance for all traders to an hourly and daily tolerance calculated depending on the size of the particular trader's portfolio. The size of a trader's portfolio tolerance dictates the amount of Balancing Charges and Balancing Compensation it pays to, and receives from, GTS. In order to calculate objective Balancing Charges and Balancing Compensation for the purposes of Clause 7.1 and to prevent traders wishing to claim under Clause 7.1 from needing to disclose commercially sensitive information about the size of their GTS portfolio to other traders, EFET has decided to adopt a deemed, standard portfolio tolerance of zero per cent for all traders.

Clause 7.2:

This indemnity is necessary because of the provision at Article 2.10.6 of the TSC which enables GTS to recover certain imbalance charges due from a trader which has had its right to use the Title Transfer Registration Service suspended from that trader's trading counterparties at TTF. GTS is able to do this if the imbalance charges sought to be recovered relate to trades at TTF between the trader and the counterparties concerned and either:

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

Effectively, this is a method by which GTS is able to pass the credit risk of a particular trader to other traders trading at TTF. 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 2.10.5 of the TSC, GTS has the right to suspend a trader's use of the Title Transfer Registration Service if GTS has insufficient security from that trader to cover certain imbalance charges incurred by that trader related to its trades at TTF or otherwise reasonably expects that these imbalance charges may not be paid on time in full.

Under Article 4.B.6 of the TSC, GTS has the right to suspend a trader's use of the Title Transfer Registration Service if the trader has nominated significantly more gas as delivered at the TTF than it has nominated at entry points and/or than may reasonably be expected to be allocated to the trader as entry gas and GTS has reasonable grounds to expect that trader will continue to do so.

Once the Title Transfer Registration Service is suspended against a trader, it will no longer be able to trade at TTF and nominations made by the suspended trader's counterparties naming the trader 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 trader 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 good reason relating to, say, the creditworthiness of the suspended trader and, if this is the case, the suspended trader's counterparties would 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 trader 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 trader and its counterparties at TTF.

1. Clause 9A.1:

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

2. Clause 9A.2:

Clause 9A.2 makes clear that even if a suspended trader's counterparty at TTF chooses to release its TTF Transaction contractual obligations under Clause 9A.1, the suspended trader 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 trader) 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 trader 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 trader 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 a 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 trader 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;

with the trader 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, If the parties do not make an election, the default rule will apply as set out in the TTF Appendix.

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 trader the ability to terminate either all TTF Transactions only or all Individual Contracts under the EFET Gas General Agreement with the trader if, at the end of the seven-day period, the counterparty has not become aware that the trader has managed to resolve its issues with GTS and have its use of the Title Transfer Registration Service reinstated. It should also be noted that quite apart from the Clause 9A.4 wording, if a Party to an EFET Gas General Agreement has been unable to fulfil its contractual obligations under one or more Individual Contracts under the EFET Gas General Agreement for a period of seven days, then the other Party to the EFET Gas General Agreement has the right to terminate all Individual Contracts anyway pursuant to § 10.5(d) (*Failure to Deliver or Accept*) of the EFET Gas General Agreement.

Users of the TTF Appendix should consider whether the right to terminate TTF Transactions only (as opposed to all Individual Contracts under the EFET Gas General Agreement including the TTF Transactions) detracts from the “single agreement” concept important to entities incorporated in certain jurisdictions.