

## Appendix 4: Balancing Group Contract Terms & Conditions

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## **1 Object of the Contract**

1. This contract sets out the provisions for the settlement and invoicing of differences arising between the gas quantities delivered to and offtaken from the Balancing Group in respect of which this contract is made, the rules for gas quantity transfers between Balancing Groups effected at the Virtual Trading Point (VTP) of the relevant market area and the billing of Balancing Neutrality Charges as well as the communication processes required in relation thereto.
2. The Balancing Group Manager shall manage its Balancing Group in accordance with the provisions set out in this contract. The Market Area Manager shall provide data and issue invoices in respect of the Balancing Group Manager's Balancing Group in accordance with the provisions set out in this contract.

## **2 Documents Forming Part of the Contract**

1. The Market Area Manager's supplementary terms and conditions as applicable at the time this contract is entered into shall constitute an integral part hereof.
2. In the event of any discrepancy between the provisions set out herein and the Market Area Manager's supplementary terms and conditions, the provisions set out herein shall prevail unless the Market Area Manager is permitted under this contract to include deviating provisions in the supplementary terms and conditions.
3. Deviating provisions relating to the Balancing Group with the status "dynamically allocable" ("DAC Balancing Group") of the type "RLM" can be included in the Market Area Manager's supplementary terms and conditions.

## **3 Registration as the Balancing Group Manager, Online Contract Formation and Implementation Period**

1. Registration as the Balancing Group Manager is effected by registering in the Market Area Manager's balancing group portal. When registering, the entity shall furnish the Market Area Manager with the following information and documents in particular no later than two months after being requested to do so by the Market Area Manager:
  - a) Excerpt from the commercial register that is no older than three months;
  - b) Certified copies of the ID cards of all members of the management, any authorised signatories and the user;
  - c) Last three certified annual financial statements or opening balance sheet;
  - d) Description of the intended business model for at least the first six months of the balancing group management, especially with details about the expected number of balancing groups according to gas quality, the start of balancing group management, the trading volumes, the expected trading partners, the

type of trading (physical or financial), and information about whether and the extent to which end customer supply is intended;

- e) If service providers are to be used, provision of authorisation for these service providers;
- f) Digital certificates for the electronic transmission of EDIFACT messages as well as any information and documents for the desired communication channel in the interests of 1:1 communication;
- g) Tax certificate (formerly clearance certificate) from the responsible tax authority; either the original or a certified copy;
- h) Market Participant's power of attorney for the user;
- i) Proof of entrepreneurial capacity for Market Participants with headquarters outside the European Union from an authority in the country in which the Market Participant is based, the content of which corresponds to template USt 1TN from the German Federal Ministry of Finance;
- j) (European) good-conduct certificate for the Market Participant (in the case of natural persons) or all members of the management (in the case of legal persons) and the user as an original or certified copy;
- k) Assurance that the Market Participant is currently not insolvent and that no legal proceedings are pending in court that are highly likely to lead to the insolvency of the Market Participant.

If the Market Participant is subject to legislation in which the requested documents do not exist in the format that is prevalent in Germany, it shall provide documents with similar content in a comparable format. If the documents are not in German or English, certified translations must be prepared and provided.

2. Further requirements for registration as the Balancing Group Manager and their rejection are set out in the supplementary terms and conditions governing use of the Market Area Manager's web portals.
3. To allow for the technical implementation of Balancing Group Contracts in the Market Area Manager's systems, any such contract must be concluded no later than 10 Business Days before the date from which the relevant Balancing Group is to be used ("Implementation Period"). Entry and Exit Points (hereinafter also referred to collectively as "Points") may already be assigned to a Balancing Group during this Implementation Period. The Balancing Group Manager's obligation to participate in a communications test conducted by the Market Area Manager shall remain unaffected.

The provisions set out in the GeLi Gas ruling handed down by the Federal Network Agency shall remain unaffected.

4. Where the Market Area Manager operates a multi-quality market area, it shall offer Balancing Group Contracts for high calorific value gas (hereinafter abbreviated to “high CV gas”) as well as for low calorific value gas (hereinafter abbreviated to “low CV gas”).
5. Where the Balancing Group Manager has entered and submitted the data requested by the Market Area Manager for the purpose of contract formation, the Balancing Group Manager will be deemed to have extended a binding offer to enter into a contract. Any such offer will be accepted immediately by way of an electronic contract confirmation. All contracts shall be concluded via the Market Area Manager's online platform.

#### **4 Daily Energy Balancing**

1. The Market Area Manager shall for energy balancing purposes record all allocated gas quantities transported and traded by Shippers. The Balancing Period shall correspond to the gas day (day “D”), i.e. a daily energy balancing regime shall apply. The Balancing Group Manager shall balance the inputs and offtakes it delivers to and from its Balancing Group in each Balancing Period. Any imbalances arising between the inputs delivered to a Balancing Group and the quantities offtaken from that Balancing Group as recorded for energy balancing purposes during a Balancing Period will be financially settled between the Balancing Group Manager and the Market Area Manager at the end of the Balancing Period. For this purpose, the Market Area Manager shall receive or pay Daily Imbalance Charges in accordance with section 14(4) below. In addition to the daily energy balancing rules, within-day obligations as described in section 6 below shall apply.
2. The energy balancing process will be based on hourly nominated quantities, metered quantities and/or quantities calculated based on standard load profiles in accordance with the following rules:
  - a) As a rule, nominated quantities will be recorded for energy balancing purposes in respect of the following Points, where the allocation rule “allocated as nominated” shall apply:
    - aa) Entry and Exit Points on market area borders (“Market Area Interconnection Points”),
    - bb) Entry and Exit Points on national borders (“Cross-Border Interconnection Points”),
    - cc) Entry Points from domestic production facilities,
    - dd) Virtual Entry and Exit Points, and
    - ee) Entry and Exit Points from or to storage facilities.

Notwithstanding the above principle, energy balancing may also be based on measured quantities at Cross-Border Interconnection Points which exclusively serve

to supply gas to end users and at Entry Points from domestic production facilities (“allocated as measured”). In respect of Cross-Border Interconnection Points which serve exclusively to supply gas to end users the allocation rule “allocated as measured” shall only be applied where this has been approved by the Federal Network Agency. Any such Point shall be treated as an RLM Exit Point for the purposes of the energy balancing regime.

- b) In respect of Exit Points that are equipped with a supply meter installation which records hourly consumption (“RLM Exit Point”) energy balancing shall be based on the metered quantities (the “Actual Offtakes”).
- c) In respect of non-daily metered Exit Points energy balancing shall be based on day-ahead forecasts calculated using standard load profiles (“SLP Exit Points”). The Market Area Manager shall submit each forecast to the Balancing Group Manager on the day preceding the relevant Balancing Period (day “D-1”).

## **5 Balancing Group to be Balanced**

The Balancing Group Manager shall ensure that the total gas quantity in kWh delivered to its Balancing Group corresponds as closely as possible with the total gas quantity in kWh offtaken from its Balancing Group. The Balancing Group Manager shall make every reasonable effort to avoid any foreseeable imbalances.

## **6 Within-Day Obligations**

1. Under the within-day obligation regime the Market Area Manager shall for each hour of the gas day calculate the balance between all relevant hourly inputs and offtakes recorded for a Balancing Group in accordance with paragraphs (2)(a) to (c) below. Inputs and offtakes shall not be considered separately at individual Points. In respect of any positive or negative imbalance remaining after netting and, where applicable, application of the tolerance granted (“Hourly Imbalance”) the Balancing Group Manager shall pay a charge (a “Within-Day Flexibility Charge”) in EUR per MWh to the Market Area Manager. Hourly Imbalances will not be settled to a position of zero.
2. For the purposes of the within-day obligation regime, the following categories of Points shall be distinguished:

- a) VTP and Points of particular importance for system stability:

In respect of the following Entry and Exit Points the relevant quantity shall be the allocated hourly quantity:

- Market Area Interconnection Points,
- Cross-Border Interconnection Points,
- Entry Points from domestic production facilities,
- Virtual Entry and Exit Points (VTP),

- Entry and Exit Points from or to storage facilities, and
- offtakes at RLM Exit Points.

In relation to the RLM Exit Points belonging to a Balancing Group the Balancing Group Manager shall be granted a tolerance of +/-7.5% in respect of any positive or negative imbalance remaining after netting (Hourly Imbalance), which tolerance shall be calculated on the basis of the aggregate daily RLM offtake quantity recorded for the relevant Balancing Group for the relevant gas day and which shall apply equally to each hour of that gas day.

- b) Where an RLM Exit Point is to be re-assigned to another allocation group (“Allocation Group Switching”), this must be notified to the relevant Network Operator in compliance with the GeLi Gas processes and deadlines by the relevant Shipper acting under an authorisation granted by the Balancing Group Manager.

c) SLP Exit Points

The relevant hourly quantity under the within-day obligation regime in respect of SLP Exit Points shall be the quantity that is obtained by determining the SLP Exit Point's daily quantity based on the applicable standard load profile and dividing this daily quantity by the number of hours in the relevant gas day to create a flat allocation profile comprising equal hourly quantities. For the purpose of determining the Hourly Imbalance relevant for the application of the Within-Day Flexibility Charge the Balancing Group Manager will not be granted any tolerance in respect of these quantities.

3. Where the Balancing Group Manager incurs a positive or negative imbalance under the within-day obligation regime which exceeds the applicable tolerance limit, if any, granted pursuant to paragraphs (2)(a) and (b) above, the Balancing Group Manager shall pay a Within-Day Flexibility Charge in EUR per MWh to the Market Area Manager.
4. The Market Area Manager shall only levy a Within-Day Flexibility Charge for gas days on which the Market Area Manager has taken System Balancing Actions in opposite directions in its market area (i.e. the Market Area Manager has entered into transactions both for the purchase and sale of gas for system balancing purposes; hereinafter referred to as “System Balancing Buy Transactions” and “System Balancing Sell Transactions”, respectively) using products procured at merit order rank MOL 1 (“MOL 1 System Balancing Actions”), provided the Market Area Manager has incurred costs as a result. For gas days on which these two criteria are not met, no Within-Day Flexibility Charge shall be applied.
5. The Within-Day Flexibility Charges payable in respect of a gas day falling within the scope of paragraph (4) above shall be calculated by first determining the relevant quantity on which the applicable Within-Day Flexibility Charge is to be applied (the “Within-Day Flexibility Quantity”). The Within-Day Flexibility Quantity shall be determined by the Market Area Manager by calculating the sum of all relevant positive and negative Hourly Imbalances (as measured in terms of their absolute values)

determined for the relevant Balancing Group, allowing for the corresponding tolerances where applicable. The Within-Day Flexibility Quantity thus determined shall then be multiplied by the applicable Within-Day Flexibility Charge.

The applicable Within-Day Flexibility Charge for a day shall be calculated by dividing

a) the Within-Day Flexibility Balancing Costs incurred for that day by

b) the Within-Day Flexibility Balancing Quantity used on that day.

aa) The Within-Day Flexibility Balancing Costs incurred for a day shall be calculated as the price difference given by the weighted average price of all relevant System Balancing Buy Transactions less the weighted average price of all relevant System Balancing Sell Transactions, multiplied by the lower of the gas quantities (as measured in terms of their absolute values) that were received and supplied, respectively, in the course of MOL 1 System Balancing Actions taken in opposite directions on that day.

bb) The Within-Day Flexibility Balancing Quantity used on a day shall be calculated as the lower of the gas quantities (as measured in terms of their absolute values) that were received and supplied, respectively, in the course of the relevant System Balancing Actions taken in opposite directions on that day, multiplied by a factor of 2.

The rules applicable in respect of Within-Day Flexibility Charges shall not affect the daily energy balancing provisions set out in this contract.

6. The prices applied to determine the applicable Within-Day Flexibility Charge shall be calculated to four decimal places and rounded in accordance with good commercial practice (half away from zero). Within-Day Flexibility Charges shall be invoiced as part of the Balancing Group invoicing process, with each invoice to be issued no later than 2 months after the end of the relevant billing month.

## **7 Balancing Subgroups**

1. The Balancing Group Manager shall have the right to set up Balancing Subgroups for any existing Balancing Group. A Balancing Subgroup is an account registered in relation to a Balancing Group which allows the Balancing Group Manager to allocate inputs and offtakes to individual Shippers and/or to maintain a clear overview of certain quantities.
2. To establish a Balancing Subgroup, the Balancing Group Manager shall notify the Market Area Manager of its wish to do so, stating the relevant Balancing Group Number. The Market Area Manager shall confirm the creation of each Balancing Subgroup by notifying the Balancing Group Manager of the relevant Balancing Subgroup's number.
3. The Balancing Group Manager may close any Balancing Subgroup with effect from the end of any given calendar month by giving at least 3 months' prior notice in writing by email, letter or fax. The Market Area Manager may also offer the option to close Balancing Subgroups via the Market Area Manager's portal.

4. Where an Entry or Exit Point is re-assigned to another market area in the event of a Market Area Transfer initiated by the relevant Network Operator and where for energy balancing purposes such Entry or Exit Point is to remain registered in the old market area for an interim period, such Entry or Exit Point must be assigned to a separate Balancing (Sub)Group that only comprises such Entry or Exit Point(s).

## **8 Assignment of Points to Balancing Groups**

1. Each physical Entry or Exit Point in respect of which gas quantities are to be recorded for energy balancing purposes must be assigned to a Balancing Group or Balancing Subgroup. To register an Entry or Exit Point for a Balancing (Sub)Group, the relevant Shipper must notify the relevant Entry or Exit Network Operator in accordance with the provisions of the entry or exit agreement in place between the parties and state the relevant Balancing (Sub)Group Number.
2. Physical Entry and Exit Points may only be assigned to Balancing (Sub)Groups which are registered for the same gas quality (high CV gas or low CV gas, respectively).
3. No separate assignment notification is required for gas quantity balancing at the VTP. The VTP will be deemed to have been assigned to the Balancing Group upon formation of this contract. Balancing Groups using capacity that is subject to transportation route restrictions (“restrictedly allocable”, status “CAR”) do not include the VTP.
4. The Market Area Manager can extend the Balancing Group Manager an offer to enter into a contract for balancing groups with the status “dynamically allocable” (“DAC Balancing Group”) in accordance with section 17(3). DAC Balancing Groups have no access to the VTP.

When entering into a contract for DAC Balancing Groups, the Balancing Group Manager shall specify to the Market Area Manager in advance

- that in this balancing group only RLM Exit Points (RLMoT or RLMmT; type “RLM”) shall be registered on the exit side or
  - that only Entry and/or Exit Points requiring nomination (Cross-Border Interconnection Points, Market Area Interconnection Points or Entry and Exit Points from or to storage facilities) shall be registered (type “requiring nomination”).
5. All Points to be assigned to a Balancing Group must be located in the market area where the Balancing Group has been registered. A Balancing Group may comprise the Points of one or more shippers. Entry and Exit Points within the meaning of section 4(2) above may be registered for multiple Balancing Groups. This shall not apply with respect to Cross-Border Interconnection Points which exclusively serve to supply gas to end users and Entry Points from domestic production facilities where the allocation rule “allocated as measured” applies.

## 9 Transfer of Gas Quantities between Balancing Groups

1. In respect of gas quantities that have already been delivered to and recorded in the market area the Balancing Group Manager may at the VTP effect transfers of gas quantities between different Balancing Groups via the VTP, with transfers of quantities from a high CV Balancing Group only being permitted to other high CV Balancing Groups, and transfers of quantities from a low CV Balancing Group only being permitted to other low CV Balancing Groups. No transportation capacity is required to transfer gas quantities between Balancing Groups at the VTP. The Market Area Manager may in its supplementary terms and conditions also permit gas quantity transfers between Balancing Subgroups.
2. In respect of each transfer of gas quantities to be effected at the VTP the Balancing Group Manager shall submit nominations to the Market Area Manager specifying the hourly gas quantities to be transferred. The Balancing Group Manager may submit its nominations by way of an Edig@s message sent via AS2 and/or by entering them using a web-based entry screen. The Market Area Manager may also offer alternative methods for the submission of nominations. All gas quantities transferred at the VTP shall be allocated based on the nominations underlying the relevant transfer.
3.
  - a) In respect of each transfer of gas quantities effected via the VTP the Balancing Group Manager shall pay a fee (the "VTP Fee") in EUR/MWh as published by the Market Area Manager on the Internet. The VTP Fee as applicable from time to time shall be published on the Market Area Manager's website one month prior to the start of the respective validity period.
  - b) Each VTP Fee shall apply for a period of twelve months, starting on 1 October in any calendar year
  - c) The VTP Fee payable in each case will be charged both to the Balancing Group Manager who has registered the disposing Balancing Group and the Balancing Group Manager who has registered the acquiring Balancing Group.
  - d) The VTP Fee will be charged for each nominated transfer of gas quantities between two Balancing Groups effected at the VTP. Gas quantity transfers between Balancing Groups that have been linked to a Master Balancing Group ("Subordinate Balancing Groups") and gas quantity transfers between Balancing Subgroups will be taken into account, provided these transfers have been nominated separately at the VTP.
  - e) The following requirements shall apply for the determination of the VTP Fee:
    - aa) Only variable VTP Fees will be charged, based on the gas quantities nominated at the VTP.
    - bb) The VTP Fee shall be capped at 0.8 cents/MWh.
    - cc) The Market Area Manager shall determine each VTP Fee on an ex-ante basis prior to the start of each relevant period and shall set it at a level that allows for

the recovery of VTP costs whilst complying with the cap defined in subparagraph (e)(bb) above. The VTP Fee shall be calculated as the quotient of anticipated VTP costs and anticipated trading volumes.

- dd) When preparing its projections for the next validity period the Market Area Manager shall adjust its forecast to take account of any residual costs or residual revenues resulting from any differences between costs and revenues.
- f) Clearing houses shall be exempted from paying the VTP Fee where and to the extent that charging the fee in respect of a particular trade would result in the VTP Fee being charged twice.

## **10 Nominations at the VTP**

1. Gas quantity transfers between Balancing Groups for gas of the same gas quality may be effected by way of two matching nominations detailing the hourly quantities to be transferred at the VTP submitted by the Balancing Group Managers having registered the Balancing Groups involved in the relevant transfer.
2. The Balancing Group Manager responsible for the disposing Balancing Group shall nominate the hourly gas quantities to be transferred as a VTP offtake and the Balancing Group Manager responsible for the acquiring Balancing Group shall nominate the same hourly quantities as a VTP input.
3. Balancing Group Managers shall notify the Market Area Manager daily of the hourly quantities to be transferred on the following day. All such notification must be received by 14:00 hours on the day preceding the relevant transfer. Nominations may be submitted for multiple days in advance.
4. All nominations must at least specify the following data:
  - the Balancing Group Numbers of the disposing and acquiring Balancing Groups;
  - the code of the relevant VTP;
  - the hourly quantities in kWh to be transferred between the Balancing Groups involved (in whole numbers) or, if offered by the Market Area Manager, a daily quantity divisible by 24.
5. Balancing Group Managers may revise any gas quantities previously nominated to the Market Area Manager by way of a renomination, with changes being permitted for future periods only. All renominations must be submitted no later than 30 full minutes before the hour from which they are to take effect. Balancing Group Managers may submit renominations in respect of every hour of the gas day. The renomination acceptance deadline for the last hour of the current gas day will close at 04:29 hours. Where a renomination is received from a Balancing Group Manager in respect of a disposing and/or acquiring Balancing Group, the relevant renominations will enter a matching process as described in paragraph (8) below.

6. Where nominations and/or renominations are submitted by way of an Edig@s message sent via AS2, an automated acknowledgement of receipt will be sent to the Balancing Group Manager. Where the Market Area Manager offers an alternative submission method pursuant to sentence 3 of section 9(2) above, the Balancing Group Manager will receive an acknowledgement of receipt in a corresponding manner. If the Balancing Group Manager does not receive an acknowledgement of receipt, it shall inform the VTP dispatching team thereof no later than 14:15 hours on the gas day D-1 in the case of a day-ahead nomination, and without undue delay in the case of a day-ahead renomination submitted at any time after 14:15 hours on the gas day D-1. In this case the VTP dispatching team and the Balancing Group Manager shall agree what further course of action to take.
7. Matching nominations will be allocated.
8. The Market Area Manager shall confirm each incoming nomination to the relevant Balancing Group Manager. If the nominations submitted by the acquiring Balancing Group Manager and the disposing Balancing Group Manager do not match, the Market Area Manager shall confirm the lower of the two nominated hourly quantities (matching). Where the relevant pair of Balancing (Sub)Group Numbers do not match or either of the parties has failed to indicate the relevant number, the nomination or renomination for the gas day in question shall be set to zero. Each nomination will take effect no earlier than from the next hour following receipt of the nomination, provided it has been submitted no later than 30 full minutes before that hour. If during the matching process there is a mismatch between corresponding nominations/renominations or Balancing Group Numbers, the Market Area Manager shall make an effort to notify the Balancing Group Managers concerned of that mismatch.
9. To accommodate the switch from CET to CEST (usually at the end of March in any calendar year), Balancing Group Managers shall nominate 23 consecutive hourly quantities or, if the Market Area Manager offers this option, a daily quantity divisible by 23. To accommodate the switch from CEST to CET (usually at the end of October in any calendar year), Balancing Group Managers shall nominate 25 consecutive hourly quantities or, if the Market Area Manager offers this option, a daily quantity divisible by 25.
10. With regard to nominations and renominations the relevant provisions set out in the applicable version of the Common Business Practice “Harmonisation of the Nomination and Matching Process” as modified from time to time shall apply; these will be made available on the Market Area Manager’s website.
11. The Market Area Manager’s VTP dispatching team and Balancing Group Managers shall ensure that they can be reached via the agreed communications systems around the clock on every gas day of the Gas Year. The Market Area Manager may at any time during the term of any Balancing Group Contract carry out a communications test to verify the Balancing Group Manager’s technical communication capability.

## 11 Declaration Notices and Declaration Clearing

1. The Market Area Manager shall produce declaration notices in respect of each Exit Network Operator and Balancing (Sub)Group based on the monthly declaration lists it receives from Network Operators for the following month. All declaration notices shall be sent to the Balancing Group Manager separately by the 18th Business Day of the month preceding the relevant Delivery Month. Without prejudice to the possibility of conducting a declaration data clearing process, each declaration notice shall be valid for a period from 06:00 hours on the first calendar day of a month until 06:00 hours on the first calendar day of the following month.
2. Each declaration notice shall specify separately for each Balancing (Sub)Group all relevant types of data series that are registered as active in the relevant declaration period and in respect of which declaration is mandatory, i.e. data series types "SLPana", "SLPsyn", "RLMoT" and "RLMmT".
3. Additional intra-monthly declaration lists and notices may need to be submitted to take account of:
  - a) supply start and end dates for RLM Exit Points, which may fall on any day in a month according to the GeLi Gas rules;
  - b) declaration clearing processes.

In each of these two cases the relevant Network Operator will be required to revise its declaration list without undue delay. The Network Operator will then submit its revised declarations to the Market Area Manager, but will send only the changed declarations and only for those Balancing (Sub)Groups in respect of which changes have been made.

Based on the intra-monthly declaration lists it receives from Network Operators, the Market Area Manager shall produce a declaration notice in respect of each Exit Network Operator and each Balancing (Sub)Group and submit this declaration notice to the Balancing Group Manager by 23:00 hours on the day D-2 where the revised declarations relate to SLP Exit Points and by 23:00 hours on the day D-1 where the revised declarations relate to RLM Exit Points.

4. The Market Area Manager shall maintain an up-to-date overview showing all relevant declaration notices submitted for each Balancing Group, including all associated Balancing Subgroups and data series types, on a portal accessible to the Balancing Group Manager.
5. The Market Area Manager shall validate the monthly and intra-monthly declaration lists it receives from Network Operators to ensure validity of the Balancing (Sub)Groups listed. The Market Area Manager will not validate whether the declared data series types are correct. If a Network Operator subsequently submits a revised declaration list, the Market Area Manager shall again validate the Network Operator's changed declaration list and submit a corrected declaration notice to the Balancing Group Manager for validation

a) in the case of a monthly declaration, no later than one Business Day after receiving the corrected declaration list

b) or for intra-monthly declarations, no later than by 23:00 hours on the day on which the corrected declaration list was received

with the corrected declaration notice only containing the Balancing (Sub)Groups in respect of which changes have been made.

6. The Balancing Group Manager shall validate all declaration notices it receives from the Market Area Manager and notify the relevant Network Operator without undue delay of any and all errors. Possible errors include but are not limited to:

- one or more Balancing (Sub)Groups are missing,
- the Network Operator has listed a Balancing (Sub)Group that has not been registered by the Balancing Group Manager,
- the data series types specified for a Balancing (Sub)Group are incomplete or incorrect,
- the declarations of a particular Network Operator are missing,
- the start or end dates indicated are incorrect.

7. The Balancing Group Manager shall notify the relevant Network Operator of any erroneous declarations by email, exactly stating the affected Balancing (Sub)Groups and providing an explanation.

8. Based on the corrected declaration lists re-submitted by the relevant Network Operator for the following or the current month (as the case may be), the Market Area Manager shall produce a declaration notice listing the relevant Exit Network Operator and Balancing (Sub)Groups affected. Declarations that relate to SLP data series may only be changed for future periods. Declarations that relate to RLM data series may also be changed for past days of the current Delivery Month, provided the changes are made by the M+12 Business Days deadline for the submission of revised allocation data and/or within the allocation clearing time limits applicable to the data series type in question. All declaration corrections must be approved by the Balancing Group Manager(s) affected.

## **12 Quantity Allocation**

1. The Market Area Manager shall accept direction-specific input and output nominations for the VTP in respect of quantities to be recorded in a Balancing Group. In respect of such nominations the allocation rule “allocated as nominated” shall apply. No revisions will be made to the relevant quantities to take account of erroneous or unavailable meter readings (with any such changes hereinafter being referred to as application of “Default Substitute Values”) or to take account of calorific value adjustments. Allocations shall only be based on confirmed nominations or renominations.

2. Each day on the day D+1, by 13:00 hours, the Market Area Manager shall submit to the Balancing Group Manager all hourly quantities allocated to the Balancing Group Manager for the data series types “ENTRY VHP” and “EXIT VHP” in respect of each relevant Balancing Group and Balancing Group pair by way of an electronic message in the applicable ALOCAT format as modified from time to time.
3. Each day on the day D+1, by 13:00 hours, the Market Area Manager shall submit to the Balancing Group Manager all relevant metered hourly offtakes determined for the Balancing Group Manager for the Delivery Day D for the data series types “ENTRYSO”, “EXITSO”, “ENTRY Biogas”, “ENTRY Wasserstoff”, “RLMoT” and “RLMmT”, with the data for each data series type to be provided in aggregated form but segmented by Balancing (Sub)Group and Network Operator, by way of an electronic message in the applicable ALOCAT format as modified from time to time. In respect of data series of the type “RLMmT” the Market Area Manager shall calculate the daily quantity for each Balancing (Sub)Group and Network Operator based on the metered quantities submitted and divide this daily quantity by the number of hours in the relevant gas day to create a flat allocation profile comprising equal hourly quantities (expressed in whole numbers). This data shall be sent to the Balancing Group Manager in ALOCAT format by 19:00 hours.
4. Each month by M+14 Business Days, the Market Area Manager shall in respect of all data series types that are allocated based on metered gas flows submit to the Balancing Group Manager the Balancing (Sub)Group data as adjusted after the application of Default Substitute Values in accordance with Code of Practice G 685 published by DVGW, the German Technical and Scientific Association for Gas and Water (“DVGW Code of Practice”).

In respect of the data series type “RLMmT” the Market Area Manager shall submit to the Balancing Group Manager both the actual, structured load profile as well as the hourly load profile as converted to a flat allocation profile. All revisions shall be indicated accordingly in the corresponding data submissions.

5. Each day on the day D-1, by 13:00 hours at the latest, the quantities that have been allocated to the Balancing Group Manager for the day D in respect of SLP Exit Points by the relevant Exit Network Operator(s) shall be provided to the Balancing Group Manager by the Market Area Manager for each Balancing (Sub)Group and relevant network so as to allow the Balancing Group Manager to make corresponding input nominations for the day D. Where by 12:00 noon any Exit Network Operator has failed to submit its SLP allocations or where such allocations are incomplete, the Market Area Manager shall in both cases create default allocations for all hours of the day D+1. Save where the Market Area Manager had previously received allocations for multiple days from the Network Operator based on a multi-day temperature forecast, the data recorded in respect of the preceding day shall be used as the default allocation. If no data is available in respect of the preceding day, the default allocation shall be set to a value of 0 kWh. Where default allocations are used, they shall be provided to the Balancing Group Manager by 13:00 hours.

6. Each day on the day D+1, by 16:30 hours at the latest, the Market Area Manager shall determine the current energy balancing position (including all relevant data series types) for each Balancing Group (“Balancing Group Status”) based on the data provided pursuant to this section 12 and shall notify the Balancing Group Manager thereof; if there have been any changes in the meantime, the Balancing Group Status shall again be notified to the Balancing Group Manager on M+15 Business Days, and again at the time the invoice is raised if any further changes have emerged after M+15 Business Days. The Balancing Group Manager shall validate the Balancing Group Status that is submitted by the Market Area Manager on the date M+15 Business Days. In respect of SLP Exit Points the allocations submitted on the day D-1 shall represent the final allocations; no Default Substitute Values or calorific value adjustments will be applied.
7. Twice during each day, the Market Area Manager shall forward to the Balancing Group Manager current information on the aggregate quantities offtaken at the RLM Exit Points belonging to the Balancing Group Manager's Balancing Group as determined and allocated by the relevant Exit Network Operator(s) so as to allow the Balancing Group Manager to take appropriate measures to prevent any imbalances from arising in its Balancing Group or to counterbalance any such imbalances. The first within-day data submission, which shall include information on the relevant offtakes as determined for the period between 06:00 hours and 12:00 hours on the current day, shall be forwarded to the Balancing Group Manager by the Market Area Manager by 16:00 hours at the latest; the second within-day data submission, which shall include information on the relevant offtakes as determined for the period between 06:00 hours and 15:00 hours on the current day, shall be forwarded by 19:00 hours at the latest. The second within-day data submission shall also include the data from the data period of the first within-day data submission, in updated form where applicable.

### **13 Allocation Clearing**

1. An allocation clearing process will be initiated once any market participant (Market Area Manager, Balancing Group Manager/Shipper or Network Operator) notes any discrepancies following submission of the final allocations (in respect of data series of the type “SLP” this is 12:00 noon on the day D-1; in respect of data series of the type “RLM” this is the date M+14 Business Days).
  - a) For the purposes of the allocation clearing mechanism a minimum difference of 500 kWh between the monthly quantity allocated to the relevant Balancing (Sub)Group for the relevant data series type and the sum of the monthly quantities actually delivered or offtaken at the Entry or Exit Points (as the case may be) belonging to that Balancing (Sub)Group and assigned to the relevant data series type shall apply in respect of the data series types “RLMmT”, “RLMoT”, “ENTRYSO”, “EXITSO”, “ENTRY Biogas” and “ENTRY Wasserstoff”. Differences of less than 500 kWh will not be cleared.
  - b) In respect of the data series types listed in paragraph (a) above the allocation clearing period opens at M+14 Business Days and closes at M+2 months -

10 Business Days so as to allow for a period of 10 Business Days for the Market Area Manager to process the results of each clearing process and produce the corresponding Balancing Group invoice. Where the Balancing Group Manager only submits its request for initiation of a clearing process to a Network Operator on the last day of the clearing period, the Network Operator is entitled to refuse to process the relevant clearing case if the Network Operator can no longer be reasonably expected to process and submit the required CLEARING ALOCAT messages to the Market Area Manager by the deadline M+2 months - 10 Business Days. The Balancing Group Manager shall validate all allocations it receives from the Market Area Manager after the date M+14 Business Days without undue delay. If the Balancing Group Manager does not raise any objections to an allocation within the specified period (M+2 months - 10 Business Days), the relevant allocation shall be deemed to form the agreed basis for the invoice later to be issued by the Market Area Manager. No clearing will take place after M+2 months - 10 Business Days. This shall not apply where the Market Area Manager was unable to process the relevant allocations due to processing problems within its own sphere of responsibility.

- c) An allocation clearing process in respect of the data series types listed in paragraph (a) above will be started if and when the relevant Balancing Group Manager applies for and receives from the Market Area Manager a Clearing Number, irrespective of what party requested for the allocation clearing process to be initiated. The Market Area Manager shall notify the relevant Network Operator of all details relevant for the clearing process, among them the Balancing (Sub)Group number, the relevant period and the data series type affected, except the Clearing Number. The Balancing Group Manager shall notify the Network Operator of the relevant quantity and submit all relevant clearing process details, among them the Balancing (Sub)Group number, the relevant period and the data series type affected. The Network Operator and the Balancing Group Manager shall then consult with one another and where necessary obtain the approval of all market partners affected by the allocation clearing, whereupon the Balancing Group Manager shall forward the relevant Clearing Number to the Network Operator. Each Clearing Number may only be used in respect of the period to be cleared, e.g. individual days ("DAY Clearing Number"), and only once for each Balancing (Sub)Group, data series type and Network Operator. In addition to issuing DAY Clearing Numbers the Market Area Manager may offer to carry out a clearing in respect of an entire Delivery Month ("MONTH Clearing Number"). Where a clearing process is run under a DAY Clearing Number, corrected allocations shall be re-submitted in respect of a single day. Where a clearing process is run under a MONTH Clearing Number, all allocations for the entire Delivery Month shall be re-submitted. Both MONTH and DAY Clearing Numbers will become invalid either on being used or on expiry of the relevant clearing period. The Network Operator will submit the required CLEARING ALOCAT messages to the Market Area Manager, stating the Clearing Number provided by the Balancing Group Manager. On receipt of these CLEARING ALOCAT messages, one

containing the data series for the cleared RLM offtakes as determined based on the applicable Balancing CV and one containing the data series for the cleared RLM offtakes as determined based on the applicable Billing CV, the Market Area Manager shall forward them to the Balancing Group Manager. This procedure ensures that the allocation clearing process is completed between all market partners involved. Allocations for RLM Exit Points which are submitted before the 12th Business Day will not be assigned a Clearing Number.

d) Network Operators wishing to run an allocation clearing process in respect of RLM data series may apply to the Market Area Manager to request a Clearing Number for Network Operators (“NO Clearing Number”) for this purpose. In each such case the Market Area Manager shall provide all details relevant for the clearing process in question to the Balancing Group Manager – the number of the Network Operator's Network Balancing Account as well as the Balancing Group Number, the relevant period and the data series type affected. The Network Operator will then submit two CLEARING ALOCAT messages to the Market Area Manager under the NO Clearing Number, both of which contain the cleared data series for the relevant RLM offtakes, once as determined based on the applicable Balancing CV and once as determined based on the applicable Billing CV. For energy balancing purposes the Market Area Manager shall only use the CLEARING ALOCAT message received under the relevant NO clearing number which contains the quantities that have been determined based on the applicable Billing CV and shall submit only this message to the Balancing Group Manager.

e) Where a clearing process has been run under a NO Clearing Number only, the Market Area Manager shall use the quantity based on the applicable Balancing CV it received previously (D+1 or M+12 Business Days) and the quantity based on the applicable Billing CV as contained in the message last submitted.

Where a clearing process has been run under at least one BGM Clearing Number as well as under at least one NO Clearing Number, the Market Area Manager shall use the quantity based on the applicable Balancing CV as contained in the last message submitted under a BGM Clearing Number and the quantity based on the applicable Billing CV as contained in the message last submitted.

Where a clearing process has been run multiple times under BGM Clearing Numbers only, the Market Area Manager shall use the message last submitted.

f) The Market Area Manager shall not have an obligation to run any further checks based on any Clearing Number. Where an allocation clearing process was initiated in violation of the applicable thresholds, the Market Area Manager shall have the right to reverse all changes made as part of the allocation clearing process in question, even after the relevant Balancing Group invoice has been issued.

g) In respect of SLP Exit Points an allocation clearing process will only be started if the sum of all relevant SLP allocations recorded for the day D (as submitted on the day D-1) exceeds the corresponding allocation quantity recorded for the preceding

day by 100% or more, or where it is equal to or less than 50% thereof, and only where it differs therefrom by 25,000 kWh or more. Where in respect of a Balancing (Sub)Group SLP declarations have been submitted for the first time and the relevant Network Operator fails to submit the corresponding allocations, the Market Area Manager cannot use the quantity recorded in respect of the preceding day to create default allocations and will therefore set the allocation to zero. For such data, as well as where default SLP allocations have been created by the Market Area Manager, clearing processes may always be run irrespective of whether the applicable thresholds are met. The same shall apply where the MAM was unable to process the relevant SLP allocations due to processing problems within its own sphere of responsibility. Where in the course of any month a Network Operator has erroneously submitted SLP allocations specifying a quantity of zero, the relevant data may always be cleared irrespective of the applicable thresholds set out in sentence 1 above.

- h) In respect of SLP Exit Points the allocation clearing window will open at 13:00 hours on the day D-1 and close at M+2 months - 10 Business Days so as to allow for a period of 10 Business Days for the Market Area Manager to process the results of each clearing process and produce the corresponding Balancing Group invoice. Where the Balancing Group Manager only submits its request for initiation of a clearing process to a Network Operator on the last day of the clearing period, the Network Operator is entitled to refuse to process the relevant clearing case if the Network Operator can no longer be reasonably expected to process and submit the required CLEARING ALOCAT message to the Market Area Manager by the deadline M+2 months - 10 Business Days. The Balancing Group Manager shall validate all allocations it receives from the Market Area Manager without undue delay after 13:00 hours on the day D-1. If the Balancing Group Manager does not raise any objections to an allocation within the specified period (M+2 months less 10 Business Days), the relevant allocation shall be deemed to form the agreed basis for the invoice later to be issued by the Market Area Manager. No clearing will take place after M+2 months - 10 Business Days.
- i) Where the criteria for carrying out an SLP allocation clearing are met, the Balancing Group Manager shall have the right to make nominations based on the quantities submitted for the day D-1. The Balancing Group Manager shall further have the right to demand that the relevant Exit Network Operator and the Market Area Manager accept this quantity as the cleared quantity.
- j) An allocation clearing process in respect of an SLP data series will only be started if and when the relevant Balancing Group Manager, and only the Balancing Group Manager, applies for and receives from the Market Area Manager a Clearing Number, irrespective of what party requested for the allocation clearing process to be initiated. The Market Area Manager shall notify the relevant Network Operator of all details relevant for the clearing process, among them the Balancing (Sub)Group number, the relevant date and the data series type affected, except the Clearing

Number. The Balancing Group Manager shall submit the Clearing Number and the relevant quantity to the Network Operator together with all relevant clearing process details, among them the Balancing (Sub)Group number, the relevant date and the data series type affected. Each Clearing Number may only be used in respect of a single day and only once for each Balancing (Sub)Group, data series type and Network Operator. The Network Operator will review the relevant allocation without undue delay. If the allocation is found to be incorrect, the Network Operator must create a new allocation based on the quantity recorded for the preceding day or based on the relevant agreed quantity and submit this new allocation to the Market Area Manager by way of a CLEARING ALOCAT message. Once the Network Operator's CLEARING ALOCAT message is received by the Market Area Manager, the Market Area Manager shall forward it to the Balancing Group Manager. The Market Area Manager shall then base its Balancing Group invoice on this CLEARING ALOCAT message.

- k) If the Network Operator determines that its original SLP allocation was correct, it will notify the Balancing Group Manager thereof without undue delay and provide evidence of the accuracy of its allocation to the Balancing Group Manager. In the event that the Network Operator cannot prove that its allocation is correct, the Network Operator must submit a new allocation based on the quantity determined for the preceding day or based on an alternative quantity agreed with the Balancing Group Manager as the result of the SLP allocation clearing process. The Balancing Group Manager shall insofar bear the risk of incurring energy imbalances in relation to its Balancing Group.
- l) Except as otherwise provided herein, paragraph (f) above shall apply accordingly to SLP Exit Points.
- m) The Market Area Manager shall maintain an overview showing all relevant allocation messages received for each Balancing Group, including all associated Balancing Subgroups and data series types, on a portal accessible to the Balancing Group Manager, which shall be updated daily. For the purpose of providing this overview the results of all clearing processes run in respect of each Balancing Group shall be taken into account. Once the overview has been updated to reflect the results of all clearing process it will represent the current energy balancing position calculated in respect of the relevant Balancing Group for invoicing purposes.

In the event that a Balancing (Sub)Group subject to a clearing process had not previously been declared, this shall be effected no later than 2 Business Days prior to the submission of the corresponding clearing allocations in compliance with section 11(7) above.

Participation in a clearing process may only be refused in justified cases.

- 2. Notwithstanding the time limit stated in paragraph (1) above, where a Network Operator has created incorrect allocations the allocation data recorded in respect of RLM Exit Points will be corrected on an ex-post basis even after M+2 months - 10 Business Days

if and where technical metering equipment is found to produce systematic errors, with any such ex-post corrections only being taken into account for the purpose of invoicing RLM Quantity Differences, Balancing Neutrality Charges and Conversion Fees. The Network Operator will notify the Market Area Manager without undue delay after becoming aware of any such case.

The Market Area Manager shall notify the Balancing Group Manager of this without undue delay.

3. Any ex-post correction pursuant to paragraph (2) above shall be conditional on the Network Operator submitting to the Market Area Manager clear and transparent documentation in compliance with the applicable provisions set out in DVGW Technical Rule G 685. All relevant meter readings registered by the meter's index and recording device must be documented in a report when examining the relevant meter point. Any documentation within the meaning of this paragraph should include a test report confirming that the meter has been repaired by the relevant equipment manufacturer but must include a meter accuracy test report issued by the local measurement office (Eichamt) or any other accredited gas meter examiner (staatlich anerkannte Prüfstelle für Messgeräte für Gas) verifying that the meter has been recalibrated. The Market Area Manager shall forward this documentation to the Balancing Group Manager. Within 10 Business Days from the date of receipt of documentation within the meaning of this paragraph the Market Area Manager shall in this matter issue a NO Clearing Number to the relevant Network Operator. The Network Operator will then submit the required CLEARING ALOCAT messages to the Market Area Manager, stating the NO Clearing Number, within 5 Business Days. On receiving these CLEARING ALOCAT messages from the Network Operator (15 Business Days after the relevant documentation was submitted at the latest), the Market Area Manager shall for energy balancing purposes only use the CLEARING ALOCAT message received under the relevant NO Clearing Number which contains the relevant quantities as determined based on the applicable Billing CV and shall submit the CLEARING ALOCAT message containing the cleared data series for the relevant RLM offtakes as determined based on the applicable Billing CV to the Balancing Group Manager. The RLM Quantity Differences arising between the relevant RLM data series as determined based on the applicable Balancing CV and the relevant RLM data series as determined based on the applicable Billing CV will be settled financially based on the daily Weighted Average Price of Gas as determined for the relevant gas day based on all transactions for the delivery of gas at the relevant Virtual Trading Point effected on the Relevant Trading Platform (including both transactions effected on a day-ahead as well as on a within-day basis). The corresponding Balancing Neutrality Charges, Conversion Fees and/or Conversion Neutrality Charges shall be invoiced based on the applicable fees and charges valid for the delivery period in question.
4. If any data adjustments pursuant to paragraphs (2) and (3) above take place more than 3 months after the end of the Neutrality Accounting Period during which the allocations in question were initially submitted, the data thus adjusted shall not affect the data base

used for the calculation of any distribution or settlement amounts under section 16(6) below. The amount of the adjustment resulting from such correction will be taken into account in the Neutrality Accounting Period during which the data is corrected.

5. On M+15 Business Days the Market Area Manager shall notify the Balancing Group Manager via the portal of the preliminary invoice amount, without assuming any liability for the accuracy of this information. The energy imbalance risk shall be borne by the Balancing Group Manager.

#### **14 Calculation, Settlement and Pricing of Daily Imbalance Quantities**

1. For the purpose of determining the Daily Imbalance Quantities incurred by the Balancing Group Manager in respect of a Balancing Group the Market Area Manager shall maintain a running balance of all daily inputs and offtakes that have been allocated to that Balancing Group. Calorific value adjustments shall not be taken into account in this process. The balance between the quantities delivered to a Balancing Group during a Balancing Period and the quantities offtaken from the Balancing Group during the same Balancing Period as they have been recorded for energy balancing purposes (the "Daily Imbalance Quantity") shall be financially settled between the Balancing Group Manager and the Market Area Manager at the end of the Balancing Period. Transferring imbalances between Balancing Groups after the end of a Balancing Period ("Ex-Post Balancing") is not permitted.
2. The Market Area Manager shall calculate the balance between the preliminary allocations as determined by the relevant Entry and Exit Network Operator(s) and the preliminary input allocations as determined for the relevant Balancing (Sub)Group, and shall notify the Balancing Group Manager of the balance thus obtained in compliance with the deadlines set out in section 12(6) above. The same shall apply with respect to the final allocations. The final allocations may be based on Default Substitute Values where required, with all relevant quantities to be converted using the applicable Balancing CV. No tolerances will be granted.
3. All Daily Imbalance Quantities shall be financially settled between the Market Area Manager and the Balancing Group Manager on a monthly basis in the course of the Balancing Group invoicing process:
  - a) Where and to the extent that the inputs recorded for energy balancing purposes on a gas day exceed the offtakes recorded for energy balancing purposes on that gas day (hereinafter referred to as a "Positive Daily Imbalance Quantity"), the Market Area Manager shall pay a charge (a "Daily Imbalance Charge") to the Balancing Group Manager in respect of that gas day. The price applicable to Positive Daily Imbalance Quantities (the "Positive Daily Imbalance Price") shall be determined in accordance with paragraph (4) below.
  - b) Where and to the extent that the offtakes recorded for energy balancing purposes on a gas day exceed the inputs recorded for energy balancing purposes on that gas day (hereinafter referred to as a "Negative Daily Imbalance Quantity") the Balancing

Group Manager shall pay a Daily Imbalance Charge to the Market Area Manager in respect of that gas day. The price applicable to Negative Daily Imbalance Quantities (the “Negative Daily Imbalance Price”) shall be determined in accordance with paragraph (4) below.

4. The Daily Imbalance Prices shall be determined as follows:

- a) The Negative Daily Imbalance Price for a gas day (= the “Marginal Buy Price”) shall be the higher of:
- the highest price of all relevant System Balancing Buy Transactions (the highest “System Balancing Buy Price”) for the delivery of gas at a Virtual Trading Point the Market Area Manager has entered into in respect of that gas day on a within-day or day-ahead basis. In the case of day-ahead products any relevant System Balancing Buy Transaction shall be deemed to have been entered into in respect of a gas day where the date of delivery corresponds to that gas day. Relevant System Balancing Buy Transactions within the meaning of this paragraph shall include System Balancing Buy Transactions effected in respect of any global product that is not subject to specific physical delivery restrictions which is traded within the Market Area Manager's own market area (merit order rank MOL 1) as well as System Balancing Buy Transactions effected in respect of any exchange-traded Quality-Specific Product traded either within the Market Area Manager's own or an adjacent market area (merit order rank MOL 2), provided any such System Balancing Buy Transaction is effected on a Relevant Trading Platform. Any transportation costs incurred in the procurement of products falling within merit order rank MOL 2 shall be taken into account in an appropriate manner.
  - the Weighted Average Price of Gas for that gas day plus two per cent. The Weighted Average Price of Gas within the meaning of this paragraph shall be based on the weighted average price of gas as determined for the relevant market area for the relevant gas day based on all transactions for the delivery of gas at the relevant Virtual Trading Point effected on the Relevant Trading Platform. The relevant price shall be based both on within-day and day-ahead products, with relevant gas trades in respect of day-ahead products being deemed to have been entered into in respect of a gas day where the date of delivery corresponds to that gas day.
- b) The Positive Daily Imbalance Price for a gas day (= the “Marginal Sell Price”) shall be the lower of:
- the lowest price of all relevant System Balancing Sell Transactions (the lowest “System Balancing Sell Price”) for the delivery of gas at a Virtual Trading Point the Market Area Manager has entered into in respect of that gas day on a within-day or day-ahead basis. In the case of day-ahead products any relevant System Balancing Sell Transaction shall be deemed to have been entered into in respect of a gas day where the date of delivery corresponds to that gas day. Relevant System Balancing Sell Transactions within the meaning of this paragraph shall include System Balancing Sell Transactions effected in respect of any global

product that is not subject to specific physical delivery restrictions which is traded within the Market Area Manager's own market area (merit order rank MOL 1) as well as System Balancing Sell Transactions effected in respect of any exchange-traded Quality-Specific Product traded either within the Market Area Manager's own or an adjacent market area (merit order rank MOL 2), provided any such System Balancing Sell Transaction is effected on a Relevant Trading Platform. Any transportation costs incurred in the procurement of products falling within merit order rank MOL 2 shall be taken into account in an appropriate manner.

- the Weighted Average Price of Gas for that gas day less two per cent. The Weighted Average Price of Gas within the meaning of this paragraph shall be based on the weighted average price of gas as determined for the relevant market area for the relevant gas day based on all transactions for the delivery of gas at the relevant Virtual Trading Point effected on the Relevant Trading Platform. The relevant price shall be based both on within-day and day-ahead products, with relevant gas trades in respect of day-ahead products being deemed to have been entered into in respect of a gas day where the date of delivery corresponds to that gas day.

For the purposes of this paragraph, day-ahead products shall also include products that relate to a weekend or a public holiday.

- c) For the purpose of determining the Daily Imbalance Prices a Relevant Trading Platform shall be any trading platform approved as such by the Federal Network Agency under Article 22(3) of the Network Code on Gas Balancing of Transmission Networks.
5. Where for any day the Negative and Positive Daily Imbalance Prices cannot be determined in accordance with the rules set out above, the Market Area Manager shall apply the Daily Imbalance Price valid for the day preceding that day. This shall also apply where the Daily Imbalance Price valid for the preceding day was already determined according to this substitute rule.
6. The Market Area Manager shall calculate the Daily Imbalance Charges by multiplying the Daily Imbalance Quantities calculated pursuant to paragraphs (1) and (2) above by the applicable Daily Imbalance Prices calculated pursuant to paragraph (4) above.
7. In determining the applicable Daily Imbalance Prices in accordance with paragraph (4) above, the Market Area Manager shall in each case base its calculations on the relevant Weighted Average Price of Gas as published on the day M+10 Business Days. Any changes in the Weighted Average Price of Gas occurring after this date shall not be taken into account for the purpose of determining the Daily Imbalance Prices. Where a changed Weighted Average Price of Gas had resulted in a different Daily Imbalance Price and where the Balancing Group Manager proves that this places undue hardship on the Balancing Group Manager, the difference between the actual Balancing Group invoice and the Balancing Group invoice as it would have been if the changed Daily Imbalance Price had been applied shall be paid or charged (as the case may be) to the

Balancing Group Manager. In particular, without limitation, an instance of undue hardship for the Balancing Group Manager shall be deemed to be given where the difference between the Daily Imbalance Price published on M+10 Business Days and the hypothetical Daily Imbalance Price that would have resulted if the changed Weighted Average Price of Gas had been applied is greater than 2%.

## **15 Financial Settlement of RLM Quantity Differences**

The quantity differences determined in relation to RLM Exit Points (“RLM Quantity Difference”) that may arise due to variations between the Balancing and Billing CVs that are used to calculate allocations, including such variations as may result from an allocation clearing process pursuant to section 13(1)(d) and section 13(3) above, shall be financially settled between the Balancing Group Manager and the Market Area Manager in accordance with the following provisions:

1. The relevant RLM Quantity Differences will be calculated on a daily basis at the end of each month. Financial settlement shall be based on the daily Weighted Average Price of Gas as determined for the relevant gas day based on all transactions for the delivery of gas at the relevant Virtual Trading Point effected on the Relevant Trading Platform (including both transactions effected on a day-ahead as well as on a within-day basis). The applicable price shall be uniformly applied to both Positive and Negative RLM Quantity Differences.
2. Where for any day for any Balancing Group the relevant Network Operator has failed to submit allocations based on the applicable Billing CV, the Market Area Manager shall use the allocations based on the applicable Balancing CV it has received and also record them as the final allocations based on the applicable Billing CV in respect of that Balancing Group. The RLM Quantity Difference for such days will be zero.
3. In respect of Positive RLM Quantity Differences (where the quantities based on the applicable Billing CV are greater than the quantities based on the applicable Balancing CV) the Balancing Group Manager shall pay a charge to the Market Area Manager; in respect of Negative RLM Quantity Differences (where the quantities based on the applicable Billing CV are lower than the quantities based on the applicable Balancing CV) the Market Area Manager shall pay a charge to the Balancing Group Manager.
4. The Market Area Manager shall base the prices it applies to RLM Quantity Differences on the relevant Weighted Average Prices of Gas as published on the day D+1. Changes in this data shall be taken into account by the Market Area Manager until M+10 Business Days. From M+10 Business Days, the published prices shall no longer be subject to changes. Where a changed Weighted Average Price of Gas had resulted in a changed price for the relevant RLM Quantity Differences and where the Balancing Group Manager proves that this places undue hardship on the Balancing Group Manager, the difference between the actual Balancing Group invoice and the Balancing Group invoice as it would have been if the changed price had been applied to the relevant RLM Quantity Differences shall be paid or charged (as the case may be) to the

Balancing Group Manager. An instance of undue hardship for the Balancing Group Manager shall be deemed to be given where the difference between the Daily Imbalance Charge published on M+10 Business Days and the hypothetical Daily Imbalance Charge that would have resulted if the changed Weighted Average Price of Gas had been applied is greater than 2%.

5. The prices applied to RLM Quantity Differences shall be calculated to four decimal places and rounded in accordance with good commercial practice (half away from zero). Each Balancing Group invoice shall be issued no later than 2 months after the end of the relevant billing month.

## **16 Neutrality Charges for Balancing**

1. The Market Area Manager shall levy separate neutrality charges for balancing (the “Balancing Neutrality Charges”) in EUR/MWh in respect of energy quantities offtaken at SLP and RLM Exit Points. The SLP Balancing Neutrality Charge shall be borne by all Balancing Group Managers supplying gas at SLP Exit Points. The RLM Balancing Neutrality Charge shall be borne by all Balancing Group Managers supplying gas at RLM Exit Points. Balancing Neutrality Charges shall be invoiced monthly as part of the Balancing Group invoicing process. The Market Area Manager shall calculate the SLP Balancing Neutrality Charges payable by a Balancing Group Manager by multiplying the Balancing Group Manager's SLP offtakes as recorded for energy balancing purposes by the applicable SLP Balancing Neutrality Charge as modified from time to time. The Market Area Manager shall calculate the RLM Balancing Neutrality Charges payable by a Balancing Group Manager by multiplying the Balancing Group Manager's RLM offtakes as recorded for energy balancing purposes, including calorific value adjustments, by the applicable RLM Balancing Neutrality Charge as modified from time to time.
2. The Market Area Manager shall set up separate accounts (the “Balancing Neutrality Accounts”) for each Balancing Neutrality Charge in which it shall record all costs and revenues to be allocated to each account pursuant to paragraph (3) below.
3. The Market Area Manager shall record the following costs and revenues in the SLP Balancing Neutrality Account:
  - revenues from SLP Balancing Neutrality Charges,
  - costs and revenues arising in the context of the SLP quantity reconciliation process (including but not limited to any advance payments on account made in respect of the financial settlement of Network Operators' Network Balancing Accounts and any penalties payable under the incentive mechanism in place for Network Operators for the timely submission of SLP Reconciliation Notices to the Market Area Manager),
  - costs and revenues arising in relation to any transaction the Market Area Manager has entered into for the purpose of taking External System Balancing Actions (“External System Balancing Transactions”), to the extent that such costs and revenues are attributable to the SLP Balancing Neutrality Account,

- any other costs and revenues related to the balancing activities undertaken by the Market Area Manager, to the extent that they are attributable to the SLP Balancing Neutrality Account.
4. The Market Area Manager shall record the following costs and revenues in the RLM Balancing Neutrality Account:
- revenues from RLM Balancing Neutrality Charges,
  - costs and revenues arising from Positive and Negative Daily Imbalance Charges,
  - costs and revenues arising in relation to External System Balancing Transactions, to the extent that such costs and revenues are attributable to the RLM Balancing Neutrality Account,
  - any other costs and revenues related to the balancing activities undertaken by the Market Area Manager, to the extent that such costs and revenues are attributable to the RLM Balancing Neutrality Account (including but not limited to any costs and revenues arising in the context of the financial settlement of RLM Quantity Differences),
  - Within-Day Flexibility Charges pursuant to section 6 above.
5. Until 30 September 2017, any and all costs and revenues relating to gas deliveries or services that were provided before 1 October 2015 but which are invoiced after that date must be divided between the two Balancing Neutrality Accounts using an SLP:RLM allocation key of 40:60.
6. The costs and revenues the Market Area Manager incurs and/or generates in connection with External System Balancing Transactions shall be determined by the Market Area Manager on a daily basis and allocated between the SLP and RLM Balancing Neutrality Accounts in accordance with the rules described in paragraphs (7) to (10) below. This shall also apply with respect to the “other costs and revenues” items listed above.
7. In respect of gas days on which External System Balancing Actions have been taken the Market Area Manager shall apply an allocation key (the “Daily Allocation Key”) to be determined as follows:
- a) In a first step the Market Area Manager shall calculate the balance in EUR between the costs and revenues it has incurred or generated under the External System Balancing Transactions effected for the relevant gas day (= “Net Cost/Revenue Position”) as well as the Aggregate SLP Balance in MWh and the Aggregate RLM Balance in MWh.
  - b) The Aggregate SLP Balance in MWh shall be calculated as the sum of all daily offtakes allocated by the Distribution System Operators in the relevant market area, including the corresponding Inter-System Flow Notifications, less the sum of all daily inputs allocated by the Distribution System Operators in that market area, including the corresponding Inter-System Flow Notifications (= “Aggregate SLP Balance”). The

Aggregate RLM Balance shall be calculated as the sum of all balances determined in respect of all Balancing Groups registered in the relevant market area, which shall be determined by comparing the relevant inputs and offtakes as recorded for energy balancing purposes (= "Aggregate RLM Balance").

- c) Where the two Aggregate Balances determined for the relevant gas day have the same sign (both balances are positive or both balances are negative) and where that sign corresponds to the direction of the External System Balancing Actions taken for that day, the allocation key to be applied to the Net Cost/Revenue Position calculated by the Market Area Manager for that gas day shall be defined for each Aggregate Balance as the ratio of that Aggregate Balance to the Total Imputed System Imbalance determined for the same direction (calculated as the sum of the Aggregate SLP Balance and the Aggregate RLM Balance). The Net Cost/Revenue Position resulting from the relevant External System Balancing Transactions shall then be allocated to the two Balancing Neutrality Accounts by the Market Area Manager based on the relevant Daily Allocation Key. To this end the Market Area Manager shall multiply the Net Cost/Revenue Position calculated in respect of the relevant day by the Daily Allocation Key applicable in respect of that day.
- d) Where the Aggregate SLP Balance and the Aggregate RLM Balance in MWh have opposing signs (one balance is positive and one balance is negative), the full amount corresponding to the Net Cost/Revenue Position shall be allocated to the Balancing Neutrality Account with the balance that corresponds to the direction of the External System Balancing Actions taken.
- e) Where the Aggregate SLP Balance in MWh and the Aggregate RLM Balance in MWh determined for a gas day have the same sign but that sign does not correspond to the direction of the External System Balancing Actions taken for that gas day, the costs and/or revenues relating to the relevant External System Balancing Transactions as calculated for the relevant gas day shall be divided between the two Balancing Neutrality Accounts using an allocation key which shall be calculated on an ex-post basis as the mean of all Daily Allocation Keys determined in respect of the individual days falling within the Neutrality Accounting Period in question (a six-monthly allocation key in relation to the Neutrality Accounting Periods applicable in the first Gas Year beginning on 1 October 2015, and a Gas-Year-related annual allocation key in relation to the years following thereafter).

The Market Area Manager shall calculate the Aggregate SLP Balance and the Aggregate RLM Balance based on the allocations as available at M+2 months + 10 Business Days. Any changes made after that date shall not be taken into account for this purpose.

- 8. In respect of gas days on which no External System Balancing Actions have been taken the Market Area Manager shall apply an allocation key in respect of the individual days falling within the term of the relevant balancing gas or service contract which shall be calculated on an ex-post basis as the mean of all Daily Allocation Keys determined in

respect of the individual days falling within the Neutrality Accounting Period in question (“Annual Allocation Key”).

9. Any capacity charges payable under contracts for standardised long-term balancing products or flexibility services or in respect of capacity bookings shall be split between the individual days falling within the relevant contract's term on a pro-rata basis and shall be allocated to the two Balancing Neutrality Accounts using the Annual Allocation Key.
10. Any other costs or revenues the Market Area Manager incurs in connection with its balancing activities shall be allocated to the relevant Balancing Neutrality Account according to causation. Where the Market Area Manager is unable to directly allocate such other costs or revenues according to causation, the Market Area Manager shall apply the Annual Allocation Key instead.
11. The Market Area Manager shall estimate the SLP Balancing Neutrality Charge and the RLM Balancing Neutrality Charge separately for each Neutrality Accounting Period in accordance with the following rules:

In respect of each Balancing Neutrality Account the Market Area Manager shall estimate the closing balance at the end of the next Neutrality Accounting Period without taking into account the Balancing Neutrality Charges payable in the next Neutrality Accounting Period (= the “Subsequent Period”) but allowing for a liquidity buffer. Any deficit or surplus accruing in a Balancing Neutrality Account shall be taken into account in the next period by way of corresponding adjustments.

Where after allowance for a liquidity buffer the anticipated costs are greater than the anticipated revenues, the Market Area Manager shall levy a Balancing Neutrality Charge in EUR per MWh to be applied to the relevant quantities offtaken, which amount shall be calculated based on a projection of the offtakes relevant for energy balancing purposes. In relation to the SLP Balancing Neutrality Account all SLP quantities shall be deemed to be a transported offtake quantity relevant for energy balancing purposes. In relation to the RLM Balancing Neutrality Account all RLM quantities shall be deemed to be a transported offtake quantity relevant for energy balancing purposes.

The relevant period for each Balancing Neutrality Charge (the “Neutrality Accounting Period”) shall correspond to the Gas Year in both market areas.

12. Where for any Neutrality Accounting Period (= a “Surplus Period”) a surplus is generated in the SLP Balancing Neutrality Account and where after allowance for a liquidity buffer that surplus is greater than the amount of the deficit, if any, projected for the next Neutrality Accounting Period (= the “Subsequent Period”), the Market Area Manager shall distribute the relevant difference in respect of that Balancing Neutrality Account in a two-stage process. In a first step the Market Area Manager shall make a distribution to each Balancing Group Manager active in the Surplus Period up to the amount of the SLP Balancing Neutrality Charges paid by that Balancing Group Manager in the Surplus Period. Any additional surplus remaining thereafter shall be distributed to all Balancing Group Managers based on the SLP quantities relevant for energy

balancing purposes as recorded for each Balancing Group Manager in the Surplus Period.

13. Where for any Neutrality Accounting Period (= a “Surplus Period”) a surplus is generated in the RLM Balancing Neutrality Account and where after allowance for a liquidity buffer that surplus is greater than the amount of the deficit, if any, projected for the next Neutrality Accounting Period (= the “Subsequent Period”), the Market Area Manager shall distribute the relevant difference in respect of that Balancing Neutrality Account in a two-stage process. In a first step the Market Area Manager shall make a distribution to each Balancing Group Manager active in the Surplus Period up to the amount of the RLM Balancing Neutrality Charges paid by that Balancing Group Manager in the Surplus Period. Any additional surplus remaining thereafter shall be distributed to all Balancing Group Managers based on the RLM quantity relevant for energy balancing purposes as recorded for each Balancing Group Manager in the Surplus Period including calorific value adjustments.
14. The amounts payable to Balancing Group Managers in accordance with the above rules shall be determined and distributed in the course of the Subsequent Period without undue delay upon availability of all final data required for the purpose of the distribution, i.e. once all relevant SLP and RLM data required for Balancing Group invoicing purposes in respect of the last month of the Surplus Period are available.

## **17 Linking of Balancing Groups**

1. Where one or more Balancing Group Managers wish to implement a link between the separate Balancing Groups they have registered within the same market area, they may do so by submitting a statement to the relevant Market Area Manager declaring that any and all amounts receivable from or payable to the Market Area Manager under the relevant contract shall be settled between the Market Area Manager and only one of these Balancing Group Managers (the designated Balancing Group Manager who has registered the designated Balancing Group to be used for settlement purposes (the “Master Balancing Group”). Where such a statement is submitted, the Balancing Group invoices in respect of the individual Balancing Groups concerned will be consolidated as follows:
  - a) All daily differences arising between the gas quantities delivered to and offtaken from each of these Balancing Groups (the Daily Imbalance Quantities) will be netted within the designated Balancing Group and financially settled between the Market Area Manager and the designated Balancing Group Manager only.
  - b) All Balancing Neutrality Charges payable in respect of each Balancing Group pursuant to section 16 above will be invoiced to the designated Balancing Group Manager only.
  - c) All Within-Day Flexibility Charges payable pursuant to section 6 above will be determined on the basis of the relevant Hourly Imbalances calculated for each individual Balancing Group, which will be netted across all Balancing Groups

involved and invoiced to the designated Balancing Group Manager after allowing for the applicable (if any) tolerances granted in relation to RLM Exit Points, provided the Market Area Manager has taken System Balancing Actions in opposite directions on the relevant day and incurred costs in relation thereto. For this purpose, the sum of all tolerances granted in respect of each individual Balancing Group will be applied to the computed net balance.

- d) All RLM Quantity Differences pursuant to section 15 above will be financially settled between the Market Area Manager and the designated Balancing Group Manager.
2. Where and to the extent that any amount receivable from the designated Balancing Group Manager cannot be recovered by the Market Area Manager within two weeks of the payment falling due, the other Balancing Group Managers shall be required to pay the relevant amounts attributable to their respective Balancing Groups.
  3. Each such Balancing Group registered with the status “dynamically allocable” (“DAC Balancing Group”) must be linked with one or several Balancing Groups registered with the status “freely allocable” (“FAC”).
    - a) In a DAC Balancing Group of the type “requiring nomination”, only entry and exit capacity at the Entry and Exit Points requiring nomination that have been defined by the TSO (Cross-Border Interconnection Points, Market Area Interconnection Points or Entry and Exit Points from or to storage facilities) may be registered in accordance with the allocation requirements. A temporary suspension of the arrangements to link the DAC Balancing Groups of the type “requiring nomination” with Balancing Groups registered with the status “freely allocable” (“FAC”) is not possible.
    - b) RLM Exit Points not requiring nomination and/or Entry Points requiring nomination shall be registered in a DAC Balancing Group of the type “RLM” in accordance with the allocation requirements. A temporary suspension of the arrangements to link the DAC Balancing Groups of the type “RLM” with Balancing Groups registered with the status “freely allocable” (“FAC”) is possible. As long as the link between the relevant Balancing Groups is active, all Entry and/or Exit Points will be balanced in one or several Balancing Groups registered with the status “freely allocable” (“FAC”).
    - c) If and where the Market Area Manager receives an electronically processable message from the relevant TSO instructing the Market Area Manager to temporarily suspend such linking arrangements, the Market Area Manager shall forward this message to the Balancing Group Manager(s) concerned without undue delay, making sure that all registered capacity products are subject to the allocation requirements published by the relevant TSOs. The advance notice periods with which the TSO is required to comply are set out in Appendix 1 to the Gas Cooperation Agreement as amended. This terminates the link between the relevant Balancing Groups from the DAC Balancing Group and the directly related Balancing Group(s) up until the end of the relevant gas day (on a rest-of-the-day basis).

In such cases, entry capacity in the DAC Balancing Group of the type “RLM” may only be registered at the Entry Points defined by the TSO that are to be used for balancing in the event of a temporary suspension of the linking arrangements.

After the point in time when the temporary suspension takes effect, the DAC Balancing Group of the type “RLM” will be billed separately for the relevant gas day. This means that aggregated positive and negative imbalances within the meaning of section 14(3)(a) or (b) lead to Daily Imbalance Charges payable and Hourly Imbalances within the meaning of section 6(3) et seq. to Within-Day Flexibility Charges payable.

- d) The link between the relevant Balancing Groups will automatically be re-established at the start of the next gas day following the gas day of the temporary suspension, unless the Market Area Manager has been instructed in compliance with the applicable lead time to temporarily suspend the linking arrangements on that gas day, too. In each such case the Market Area Manager shall notify the relevant Balancing Group Manager(s) thereof without undue delay by forwarding the message received from the TSO.
4. All further details will be governed by a separate contract (Agreement on the Linking of Balancing Groups) which shall be entered into by the Market Area Manager and the Balancing Group Managers concerned in each case for a minimum term of one calendar month. Where Balancing Groups for gas of different gas qualities are to be linked pursuant to section 20(1) below, this will also be agreed by way of such a separate contract (Agreement on the Linking of Balancing Groups). Notwithstanding sentence 1 of this paragraph, the minimum term in respect of Biogas Balancing Groups is one year.

## **18 Cross-Quality Energy Balancing and Gas Quality Conversion**

For energy balancing purposes all gas quantities a Balancing Group Manager has in a market area will be taken into account irrespective of the relevant gas quality (“Cross-Quality Energy Balancing”). Where on any day a Balancing Group Manager has an oversupply of gas in one gas quality and an undersupply of gas in the other gas quality, the lower of the two quantities shall be deemed to have been virtually converted by the Market Area Manager (each such quantity a “Conversion Quantity”). Where this conversion is determined to have taken place in the conversion direction from high CV to low CV gas quality, the Balancing Group Manager shall pay a Conversion Fee pursuant to section 19 below. The gas quality conversion mechanism serves to facilitate cross-quality gas trading. Using the conversion mechanism for the purpose of giving rise to a requirement for the Market Area Manager to take System Balancing Actions is not permitted.

## **19 Conversion Fee and Conversion Neutrality Charge**

1. Where and to the extent that a Balancing Group Manager makes use of the Cross-Quality Energy Balancing mechanism within a market area and conversion has taken

place in the conversion direction from high CV to low CV gas quality, the relevant Market Area Manager will charge that Balancing Group Manager a fee (“Conversion Fee”) in EUR per MWh which shall be applied to the relevant gas quantity that has been balanced across different gas qualities. For this purpose, all high CV and low CV gas quantities recorded for the Balancing Group Manager in the relevant multi-quality market area shall be taken into account in calculating the Conversion Fee payable pursuant to section 20 below. In addition, the Market Area Manager shall charge Balancing Group Managers a neutrality charge (“Conversion Neutrality Charge”) as determined in accordance with section 22 below where it expects that, after allowance for a liquidity buffer, its conversion costs will be greater than the revenues generated from Conversion Fee payments or where residual costs from previous validity periods have accrued.

2. The Conversion Fee and the Conversion Neutrality Charge shall be set at a level that will allow the Market Area Manager to recover the costs it expects to incur in respect of its gas quality conversion activities in an efficient way whilst ensuring to the extent possible that, after making allowance for a liquidity buffer, the Market Area Manager will neither gain nor lose financially. Neither the Market Area Manager nor any Network Operator shall incur permanent costs or derive permanent revenues under this mechanism. Where multiple conversion measures are available, the Market Area Manager shall choose the most cost-effective measure with a view to minimising conversion costs.
3. The Conversion Fee and the Conversion Neutrality Charge will be determined by the Market Area Manager based on an estimate of the conversion costs it expects to incur in the relevant validity period, which shall be calculated using an appropriate estimation method. When projecting the anticipated quantities the Market Area Manager shall consider the future Conversion Quantities it expects to be converted during the relevant validity period based on the actual Conversion Quantities previously converted whilst having regard to any available information about foreseeable future quantity trends, in particular, without limitation, regarding the extent of the related market shift and the general conditions for the use of technical and commercial conversion measures plus associated costs. In addition, the Market Area Manager shall have the right to make allowance for a liquidity buffer when determining the Conversion Neutrality Charge to be applied.

## **20 Calculation of Billable Conversion Quantities**

1. Balancing Group Managers who have registered Balancing Groups both for high CV gas and low CV gas within a market area shall be required to link these Balancing Groups. Each Balancing Group Manager shall ensure that all Shippers delivering and/or offtaking gas to or from its Balancing Group also arrange for Cross-Quality Energy Balancing in respect of all high CV and low CV gas quantities transported by them within the market area.

2. The Conversion Quantities attributable to a Balancing Group Manager shall be determined by calculating separate high CV and low CV gas balances for the Balancing Group Manager based on the daily inputs and offtakes as recorded for energy balancing purposes for the relevant individual Balancing Groups. The relevant Entry and Exit Points must be assigned to separate Balancing Groups according to gas quality. For the purpose of calculating the relevant balances a Master Balancing Group linking the individual Balancing Groups shall be set up and assigned a gas quality. The balances of all Balancing Groups linked to the Master Balancing Group, including the balance determined for the Master Balancing Group itself, shall then be added up separately for each gas quality. In respect of the Master Balancing Group only the daily inputs and offtakes as recorded for energy balancing purposes will be taken into account in this process. All calculations shall be based on the allocations as available at M+2 months - 10 Business Days. Any changes made after that date shall not be taken into account for this purpose. In respect of the RLM Exit Points belonging to a Balancing Group the Conversion Fee shall be levied based on the relevant quantities as revised to take account of Default Substitute Values (if any) and calorific value adjustments.
3. Where the above calculations show that the Balancing Group Manager has an oversupply of high CV gas and an undersupply of low CV gas, the Market Area Manager shall charge the Balancing Group Manager a Conversion Fee in EUR per MWh, which shall be applied to the lower of the two quantities as measured in terms of their absolute values. The Conversion Fee shall be invoiced based on the final quantities as recorded for energy balancing purposes and underlying the corresponding Balancing Group invoice.

The provision set out in sentence 2 of paragraph (1) above shall only apply in respect of Entry and Exit Points the relevant Shipper has assigned to a Balancing Group registered by the Balancing Group Manager concerned.

## **21 Conversion Fee**

The Conversion Fee shall be set at a level that ensures that market participants are sufficiently incentivised to engage in cross-quality gas trading whilst also ensuring that the Market Area Manager does not become the main party procuring the physical quantities of low CV gas needed to supply end users of low CV gas in its market area. The Conversion Fee shall, however, be subject to a cap (the "Conversion Fee Cap"). The Conversion Fee Cap shall be set at 0.45 EUR/MWh.

## **22 Conversion Neutrality Charge**

1. A Conversion Neutrality Charge in EUR per MWh shall be charged based on all daily gas quantities physically delivered to a Balancing Group. For the purpose of determining the relevant daily inputs the relevant quantity shall be the daily allocated quantity as adjusted to take account of any renominations where applicable. Virtual inputs delivered to a Balancing Group in the context of a trade shall be exempted from

the Conversion Neutrality Charge. Physical inputs that are delivered using capacity that is subject to transportation route restrictions shall only be subject to the Conversion Neutrality Charge where the relevant quantities are offtaken at an Exit Point of a different gas quality.

2. The Conversion Neutrality Charge is levied alongside the Conversion Fee so as to ensure that all efficient costs incurred in respect of commercial and technical conversion activities can be recovered. The Conversion Neutrality Charge will be determined based on an estimate of the conversion costs expected to be incurred in the relevant validity period, to the extent that such costs cannot be recovered by way of the Conversion Fee. In addition, adjustments will be made in subsequent estimates for the Conversion Neutrality Charge to take account of the amount of the difference (if any) determined pursuant to section 24 below as well as of the required liquidity buffer.
3. Allocated inputs that were made using capacity that is registered to a CAR Balancing Group shall be exempted from the Conversion Neutrality Charge.

### **23 Conversion Fee and Conversion Neutrality Charge Validity Framework**

1. The Conversion Fee to be applied for the conversion of gas from high CV to low CV gas quality and the Conversion Neutrality Charge shall be set and published by the Market Area Manager for the period from 1 April to 30 September 2017 initially and thereafter for a period of twelve months each, starting on 1 October in any calendar year.
2. During the course of a validity period the Market Area Manager may in exceptional cases increase the applicable Conversion Fee, and even exceed the Conversion Fee Cap set out in section 21 above, where this is absolutely necessary to account for unforeseeable circumstances. Any such changes to the applicable Conversion Fee require the prior approval of the Ruling Chamber No. 7 of the Federal Network Agency, which the Market Area Manager shall seek in due time but in any case no later than two weeks ahead of the date on which the changed Conversion Fee is to take effect, stating at least its reasons, the expected validity period as well as the intended effective date and amount of the changed Conversion Fee. The Ruling Chamber may approve the Conversion Fee change proposed by the Market Area Manager in whole or in part, both as regards the proposed amount of the Conversion Fee as well as regards the proposed validity period.
3. The Market Area Manager shall provide the Balancing Group Manager with all the information the latter requires to validate the invoice items billed under the conversion mechanism. All billing information shall be made available in a format that is compatible with standard software for further processing.

### **24 Conversion Cost/Revenue Reconciliation**

1. In respect of each validity period the Market Area Manager shall run a reconciliation to establish whether there have been or will be any differences between the actual

conversion revenues generated under the Conversion Fee mechanism in the relevant validity period taken together with the conversion revenues yet to be generated in the period remaining until the end of that validity period, on the one hand, and the actual conversion costs incurred in the relevant validity period taken together with the conversion costs yet to be incurred in the period remaining until the end of that validity period, on the other hand. For this purpose, the Market Area Manager shall in a first step calculate for each day of the relevant validity period the actual conversion costs and revenues that have been incurred and generated, respectively, in the period up to the estimation date using an appropriate method that reflects causation. Following this, the Market Area Manager shall estimate the future costs and revenues expected to arise in the period remaining until the end of the relevant validity period. Based on the results of these two calculations the Market Area Manager shall then determine the difference between the relevant costs and revenues. If a surplus is generated in any validity period (“Surplus Period”), the Market Area Manager shall proceed as follows:

- a) Any surplus generated shall first be applied with a view to reducing the applicable Conversion Neutrality Charge, in order to recover any deficit projected to accrue by the end of the next validity period and in order to meet liquidity buffer requirements.
  - b) Where for any validity period (the “Surplus Period”) a surplus is generated and where after allowance for a liquidity buffer that surplus is greater than the amount of the deficit, if any, projected for the validity period following the Surplus Period (the “Subsequent Period”), the Market Area Manager shall distribute this difference in a two-stage process: In a first step the Market Area Manager shall make a distribution to all Balancing Group Managers based on the Conversion Neutrality Charges paid by them in the Surplus Period. Each such distribution may be made in an amount up to but no higher than the Conversion Neutrality Charges paid in the Surplus Period. Any additional surplus remaining thereafter shall be distributed on a pro-rata basis to those Balancing Group Managers who paid Conversion Fees in the Surplus Period. Each such distribution may be made in an amount up to but no higher than the Conversion Fees paid in the Surplus Period.
  - c) The actual amounts payable to Balancing Group Managers in accordance with the above provisions shall be determined and distributed in the course of the Subsequent Period without undue delay once all final data required for the purpose of the distribution is available.
2. For the purpose of calculating the difference between conversion costs and revenues the Market Area Manager shall set up and administer a separate account (the “Conversion Neutrality Account”). The items to be recorded in this account include but are not limited to:
- revenues from Conversion Fee payments,
  - revenues from Conversion Neutrality Charges,

- costs and revenues arising from the carrying out of conversion measures,
- interest income and expenditure,
- the required liquidity buffer.

## 25 Provisions for Restricted Physical Exchange Trades

1. Where an exchange trade is effected in respect of an exchange-traded product that is subject to specific physical delivery restrictions (any such trade a “Restricted Physical Exchange Trade”), i.e. an exchange trade that is effected in respect of
  - any product that is traded for delivery of gas of a specified gas quality (high CV gas or low CV gas; any such product a “Quality-Specific Product” and any such trade a “Quality-Specific Physical Exchange Trade”),
  - any product that is traded for delivery in a specified network area or balancing zone (any such product a “Zone-Specific Product” and any such trade a “Zone-Specific Physical Exchange Trade”) or
  - any product that is traded for delivery at a specified Entry or Exit Point (any such product a “Point-Specific Product” and any such trade a “Point-Specific Physical Exchange Trade”)

then – provided such products are offered – the disposing and acquiring Balancing Group Managers involved in such trade (each a “Trading Party”) shall be required to cause a physical effect in accordance with this section 25.

2. The relevant Trading Party shall cause the required physical effect via its Balancing (Sub)Group by way of making corresponding nominations or renominations in respect of a Cross-Border Interconnection Point, a Market Area Interconnection Point or a storage connection point so as to initiate physical inputs or offtakes of gas. In so doing the Trading Party shall ensure that where it has purchased gas in a Restricted Physical Exchange Trade a physical effect is produced
  - in the specified gas quality (high CV gas or low CV gas, as the case may be) where the Trading Party has purchased a Quality-Specific Product,
  - in the relevant network area or balancing zone where the Trading Party has purchased a Zone-Specific Product and
  - at the relevant Entry or Exit Point where the Trading Party has purchased a Point-Specific Product

by causing gas to be physically offtaken and/or by causing physical inputs of gas to be reduced in that gas quality, in that network area or balancing zone or at that Entry or Exit Point, as the case may be. Conversely, where the Trading Party has sold gas in a Restricted Physical Exchange Trade, it shall ensure that a physical effect is produced

- in the specified gas quality (high CV gas or low CV gas, as the case may be) where the Trading Party has sold a Quality-Specific Product,

- in the relevant network area or balancing zone where the Trading Party has sold a Zone-Specific Product and
- at the relevant Entry or Exit Point where the Trading Party has sold a Point-Specific Product

by causing gas to be physically delivered and/or by causing physical offtakes of gas to be reduced in that gas quality, in that network area or balancing zone or at that Entry or Exit Point, as the case may be.

The relevant physical input or output nominations or renominations, as the case may be, shall be purposefully made with a view to causing the required effect.

3. Other than described in paragraph (2) above, the Trading Party may also cause the required physical effect by securing that an RLM end user whose Exit Point is registered to the Balancing Group or a Balancing Subgroup of the Trading Party
  - increases its demand accordingly where the Trading Party has purchased gas in a Restricted Physical Exchange Trade, or
  - decreases its demand accordingly where the Trading Party has sold gas in a Restricted Physical Exchange Trade.

In the event that a Trading Party receives a request for evidence from the Market Area Manager pursuant to paragraph (11) below, the Trading Party shall prove in a suitable manner that the relevant change in demand was purposefully effected as a result of that Party's entering into the relevant Restricted Physical Exchange Trade, and especially, without limitation, that the relevant change in demand had not already been prompted prior to the execution of the relevant exchange trade.

4. Where a Restricted Physical Exchange Trade is entered into for the supply or receipt of gas in a specified single delivery hour, the Trading Party required to deliver the physical effect to be caused pursuant to paragraphs (1) to (3) above shall ensure that such physical effect is delivered in the exact delivery hour agreed and that its magnitude is equal to the gas quantity agreed. Evidence of this can be provided on the basis of the corresponding allocation data.
5. A physical effect required to be caused pursuant to paragraphs (1) to (4) above may also be effected by a third party provided that the Balancing (Sub)Group of that third party and the Balancing (Sub)Group of the relevant Trading Party have been linked in accordance with section 17 above. Where a Trading Party wishes to arrange this, it shall secure that the relevant third party will deliver the physical effect required to be caused in accordance with paragraphs (1) to (4) above by instructing the third party to do so. Notwithstanding the foregoing, the Trading Party shall in no event be released from any liability it may have towards the Market Area Manager to cause the required physical effect.
6. Counterbalancing any relevant trade by making use of the virtual conversion mechanism is not permitted.

7. Any Trading Party may via the VTP of the relevant market area deliver to or receive from a third party a gas quantity equal to the quantity it has purchased or sold, respectively, in a Restricted Physical Exchange Trade, provided it has secured that that third party will deliver the physical effect required to be caused in accordance with paragraphs (1) to (4) above by instructing the third party to do so. Notwithstanding the foregoing, the Trading Party shall in no event be released from any liability it may have towards the Market Area Manager to cause the required physical effect.
8. Where in respect of certain hours in any delivery period a Trading Party has purchased and re-sold or sold and re-purchased on the same exchange the same quantity of gas in a Restricted Physical Exchange Trade effected in respect of the same product variant, that Trading Party shall be released from its obligation to cause a physical effect in accordance with paragraphs (1) to (4) above in respect of those hours.
9. The Market Area Manager shall be exempted from the obligation to cause a physical effect in accordance with paragraphs (1) to (4) above in respect of any relevant transaction it executes for the purpose of taking External System Balancing Actions.
10. The Market Area Manager shall have the right to require the relevant exchange to disclose any and all trading data in respect of any trade falling within the scope of this section 25 that the Market Area Manager needs to verify a Trading Party's compliance with its respective obligations.
11. If the Market Area Manager has reasonable grounds for doubting that a physical effect required to be caused pursuant to this section 25 has been delivered, the relevant Trading Party shall upon request by the Market Area Manager submit evidence of its having duly caused such effect to the Market Area Manager.
12. If a Trading Party fails to comply with its obligation to cause a physical effect in accordance with this section 25, that Trading Party shall pay a penalty to the Market Area Manager unless the Trading Party submits evidence to the Market Area Manager that the Trading Party cannot be held responsible for the breach in question.

The penalty shall be determined as the difference between

- the amount that is calculated based on the relevant gas quantity which was traded in a Restricted Physical Exchange Trade within the meaning of paragraph (1) above and in respect of which no physical effect has been delivered, and the actual price received or paid by the relevant Trading Party in respect of that trade
- and
- the amount that is calculated based on the relevant gas quantity which was traded in a Restricted Physical Exchange Trade within the meaning of paragraph (1) above and in respect of which no physical effect has been delivered, and the relevant Daily Imbalance Price applicable on the gas day in respect of which the relevant Trading Party had an obligation to deliver such physical effect. Where the Trading Party has sold gas in the relevant Restricted Physical Exchange Trade, the relevant Daily Imbalance Price shall be the Positive Daily Imbalance Price

calculated in accordance with section 14(4)(b) above. Where the Trading Party has purchased gas in the relevant Restricted Physical Exchange Trade, the relevant Daily Imbalance Price shall be the Negative Daily Imbalance Price calculated in accordance with section 14(4)(a) above.

The Market Area Manager shall retain the right to claim further damages. Any penalty payable pursuant to this paragraph (12) shall be offset against any damages payable.

Where a Trading Party has sold gas in a Restricted Physical Exchange Trade and a penalty payable in relation to that Restricted Physical Exchange Trade as determined pursuant to the foregoing provision is less than the amount calculated as the difference between

- the highest price payable to the Trading Party by the Market Area Manager on the relevant gas day in respect of the product traded pursuant to paragraph (1) above and in respect of which no physical effect has been delivered,
- and the relevant Weighted Average Price of Gas as determined pursuant to sentences 2 and 3 of the second bullet point in section 14(4)(a) and (b), respectively, for the relevant market area<sup>1</sup> for the relevant gas day

the penalty payable by the Trading Party in relation to the transaction in question shall be calculated as the amount determined in accordance with this sentence multiplied by the gas quantity traded pursuant to paragraph (1) above and in respect of which the Trading Party has failed to deliver the required physical effect.

Where a Trading Party has bought gas in a Restricted Physical Exchange Trade and a penalty payable in relation to that Restricted Physical Exchange Trade as determined pursuant to the foregoing provision is less than the amount calculated as the difference between

- the lowest price payable to the Market Area Manager by the Trading Party on the relevant gas day in respect of the product traded pursuant to paragraph (1) above and in respect of which no physical effect has been delivered,
- and the relevant Weighted Average Price of Gas as determined pursuant to sentences 2 and 3 of the second bullet point in section 14(4)(a) and (b), respectively, for the relevant market area<sup>2</sup> for the relevant gas day,

the penalty payable by the Trading Party in relation to the transaction in question shall be calculated as the amount determined in accordance with this sentence multiplied by the gas quantity traded pursuant to paragraph (1) above and in respect of which the Trading Party has failed to deliver the required physical effect.

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<sup>1</sup> Published at <https://www.eex.com/de/marktdaten/erdgas/spotmarkt/daily-reference-price>

<sup>2</sup> Published at <https://www.eex.com/de/marktdaten/erdgas/spotmarkt/daily-reference-price>

The Market Area Manager shall reduce the penalty calculated pursuant to this paragraph (12) and payable to the Balancing Group Manager by 20% if

- the disposing and/or acquiring Balancing Group Manager notified the Market Area Manager comprehensively in Text Form about its failure to comply with its obligation to deliver a physical effect in accordance with this section (25) and about the facts and circumstances before the Market Area Manager wrote to the Balancing Group Manager about this breach or the facts and circumstances;
- the notification by the Balancing Group Manager was received within 90 gas days after the breach occurred and
- the Balancing Group Manager did not report more than 3 breaches to the Market Area Manager within a Gas Year.

If the aforementioned conditions are met, the Market Area Manager shall not issue a warning regarding the breach of contract pursuant to section 37(3)(a) to the Balancing Group Manager unless the breach is particularly serious.

The Market Area Manager shall retain the right to claim further damages. Any penalty payable pursuant to this paragraph (12) shall be offset against any damages payable.

## **26 IT System Availability**

1. The Balancing Group Manager shall be entitled to use any web-based communication channel, including the related functionality and connected systems, provided by the Market Area Manager (hereinafter collectively referred to as a “Communications System”) within the current technical limits of any such Communications System only and subject to its technical availability. The Market Area Manager may temporarily limit the scope of any service provided through any Communications System where and to the extent that this is required to maintain the security and integrity of that Communications System or to carry out technical measures aimed at ensuring the proper functioning or improving the performance of any offered service following a failure due to hardware and/or software errors of any connected system operated by the Market Area Manager. In the above cases the Balancing Group Manager shall not be entitled to request use of the relevant web-based communication channel. In any of the above events the Market Area Manager shall notify the affected Balancing Group Managers thereof in a suitable way without undue delay and ensure that the resulting implications for Balancing Group Managers are kept as minimal as possible and restore availability of the Communications System affected without undue delay within commercially reasonable limits.
2. In the event that any connected system operated by the Market Area Manager fails due to unforeseeable technical issues, including but not limited to hardware and/or software errors, this may temporarily affect the processing of allocation messages and/or their submission to Balancing Group Managers. In any such case the Market Area Manager shall notify the affected Balancing Group Managers thereof in a suitable way without

undue delay and make an effort to restore availability without undue delay within commercially reasonable limits.

3. There may also be situations where the Market Area Manager cannot process VTP nominations submitted by Balancing Group Managers in Edig@s format due to unforeseeable technical issues, such as a failure caused by hardware and/or software errors or any unforeseeable technical issue affecting any connected system operated by the Market Area Manager. In any such case the Market Area Manager shall notify the affected Balancing Group Managers thereof in a suitable way without undue delay, including information about any other options available for the submission of nominations, and make an effort to restore availability without undue delay within commercially reasonable limits.

## **27 Information to be Published and Provided by the Market Area Manager**

1. The Market Area Manager shall publish the following information on its website in an electronic format compatible with standard software for further processing:
  - a) Fees and charges:
    - aa) the applicable Balancing Neutrality Charges (EUR/MWh) and the Market Area Manager's decision on the distribution of a surplus, if any, to be published six weeks prior to the start of each validity period. The basis and methodology used to calculate the Balancing Neutrality Charges and distribution amounts.
    - bb) the applicable Within-Day Flexibility Charges (EUR/MWh), including information on the methodology applied to calculate the Within-Day Flexibility Charges
    - cc) information relating to Conversion Fees (EUR/MWh) and Conversion Neutrality Charges (EUR/MWh):
      - the applicable Conversion Fee and the Market Area Manager's decision on the distribution of a surplus, if any, to be published no later than six weeks prior to the start of each validity period. If the Market Area Manager intends to change the applicable Conversion Fee during the course of a validity period, it shall publish information about this planned Conversion Fee change without undue delay on submitting the planned Conversion Fee change to the Ruling Chamber No. 7 of the Federal Network Agency with a view to seeking its approval pursuant to section 23(2) above. Where the applicable Conversion Fee is changed in accordance with section 23(2) above, the Market Area Manager shall publish the Conversion Fee no later than two calendar days ahead of the date on which the changed Conversion Fee is to take effect.
      - the applicable Conversion Neutrality Charge, to be published no later than six weeks prior to the start of each validity period.
      - the basis and methodology used to calculate the Conversion Fee and the Conversion Neutrality Charge.

- the monthly balance of the Conversion Neutrality Account, to be published no later than five Business Days after the end of the relevant month based on the available preliminary data. Once all relevant final data required for the purpose of publication in respect of the billing month in question is available, the preliminary data shall be updated and replaced with the corresponding final data. The relevant monthly amounts shall be published separately for each item to be recorded in the account pursuant to section 24(2) above.
  - information on the quantities and prices relating to the measures the Market Area Manager takes to physically convert gas from one gas quality to another, to be published separately for commercial and technical conversion activities no later than five Business Days after the end of the relevant month based on the available preliminary data. Once all relevant final data required for the purpose of publication in respect of the billing month in question is available, the preliminary data shall be updated and replaced with the corresponding final data.
  - the preliminary daily quantities determined to have been virtually converted by the Market Area Manager, separately for each direction of conversion. Once all relevant final data required for the purpose of publication is available, the preliminary data shall be updated and replaced with the corresponding final data.
- dd) the applicable VTP Fee, in EUR/MWh and additionally in cents/MWh in brackets, to be published one month prior to the start of each validity period pursuant to section 9(3) above.
- ee) the charges applied to RLM Quantity Differences (EUR/MWh) pursuant to section 15(3) above.
- b) The methodology the Market Area Manager applies to calculate Daily Imbalance Charges; the Daily Imbalance Charges applied, to be published after the end of each Balancing Period; and information relating to the determination of the Negative and Positive Daily Imbalance Prices, with due regard to the information required to be published under section 40(2)(1) and 40(2)(2) of the German Gas Third Party Access Regulations (GasNZV; the “Access Regulations”), most notably information on the evolution of the Marginal Buy Price and the Marginal Sell Price, to be published without undue delay after each trade. The above obligation shall also extend to any information required to derive the above data, such as the highest System Balancing Buy Price, the lowest System Balancing Sell Price, the Weighted Average Price of Gas including an adjustment of +/-2 per cent and the anticipated Daily Imbalance Prices, with the latter to be updated on an hourly basis. All information pertaining to daily values shall at least be provided for the preceding 12 months.
- c) Information on the Internal and External System Balancing Actions taken, to be published retrospectively on a daily basis and to be provided for the preceding 12

months or more The information published in respect of External System Balancing Actions shall include at least the following data: the date when the balancing action was taken, the delivery point, the applicable transportation costs, if any, the relevant MOL rank, the duration of the balancing action, the lot size, the balancing volume, the gas quality and the applicable commodity charges. Where products ranking at level 4 of the merit order list are used, the Market Area Manager shall also publish the type of product, the network area/location, the lot size, the period, the price and the gas quality agreed for the contracted service. In addition, the Market Area Manager shall publish information on the costs and duration of any capacity contracts it has executed so as to be able to trade gas for balancing purposes in adjacent market areas.

- d) The monthly balances of the Balancing Neutrality Accounts, to be published upon availability of all relevant data required for the purpose of publication in respect of the billing month in question. For the purpose of publication all cost and revenue items that must be allocated using the Annual Allocation Key shall be attributed to the two Balancing Neutrality Accounts on a preliminary basis using the allocation key determined in respect of the preceding year. Upon availability of the relevant Annual Allocation Key, which is determined on an ex-post basis, the information published for all cost and revenue items that must be allocated using the Annual Allocation Key shall be corrected retrospectively. All cost and revenue items recorded in each of the Balancing Neutrality Accounts, including the liquidity buffer, shall be published separately.
  - e) A meaningful summary of all reports and evaluations to be submitted to the Federal Network Agency, to be published in a timely manner following their submission to the regulator.
2. Where the Market Area Manager has entered into a contract for a long-term balancing product with the Balancing Group Manager which involves the provision of balancing services through use of the demand-side flexibility available at an RLM Exit Point, the Market Area Manager shall submit an electronic message in REQUEST format to the Balancing Group Manager in the event that the Balancing Group Manager is called on to provide the balancing service contracted in order to notify the Balancing Group Manager of its required duration and the delivery rate to be provided. The Balancing Group Manager shall without undue delay after entering into any contract for a long-term balancing product notify the Shipper(s) affected of the delivery rate contracted and shall also, in the case of both long-term and short-term balancing products, notify the Shipper(s) affected of the duration and delivery rate requested in the event that the Balancing Group Manager is called on to provide the balancing service agreed. The Balancing Group Manager hereby affirms that it has entered into contractual arrangements with the Shipper(s) affected in each case placing an obligation on the Shipper(s) to inform the relevant Exit Network Operator of the delivery rate agreed in each contract for a balancing product which involves the provision of balancing services through use of the demand-side flexibility available at an RLM Exit Point as well as of

the duration and delivery rate requested in the event that the Balancing Group Manager is called on to provide the balancing service agreed, with each such information to be provided without undue delay.

## **28 Provision of Security**

1. The Market Area Manager may in justified cases require the Balancing Group Manager to provide reasonable security or to make advance payment in accordance with section 29 below for the purpose of securing any and all claims for payment arising under the Balancing Group Contract. The Market Area Manager shall request any such security or advance payment from the Balancing Group Manager in a written form in accordance with section 126b of the German Civil Code (BGB; "Text Form") and shall explain its reasons for requiring such security or advance payment.
2. Without limitation, a justified case shall be deemed to be established
  - a) if and where the Balancing Group Manager
    - aa) has defaulted to a significant extent on any due payment, which as a rule means an amount equal to 10% or more of the amount billed to the Balancing Group Manager in the most recent invoice or most recent advance payment notice, and continues to be in default, whether in respect of the full amount or a part thereof, despite having been issued with a written demand for payment by the Market Area Manager on or after occurrence of the default warning the Balancing Group Manager that the contract will be terminated; or
    - bb) has defaulted on any due payment twice in a period of twelve months,
  - b) if and where enforcement measures have been initiated against the Balancing Group Manager for a monetary claim (sections 803 - 882a of the German Code of Civil Procedure (ZPO)), except where the monetary claim is in relation to an insignificant amount; or
  - c) if and where the Balancing Group Manager has applied to have insolvency proceedings initiated against its assets; or
  - d) if and where in a given situation, giving due consideration to the general circumstances prevailing in each case, the Market Area Manager has grounds for believing that the Balancing Group Manager will not or not fully meet its obligations under this contract or fail to do so on time, unless the Balancing Group Manager provides suitable evidence of its creditworthiness within 5 Business Days of receiving a request for advance payment from the Market Area Manager, or
  - e) if and where a third party has applied to have insolvency proceedings initiated against the Balancing Group Manager's assets, unless the Balancing Group Manager proves within the time limit stated in sentence 2 of paragraph (4) below that none of the grounds for such proceeding as provided for in section 17(2) and section 19(2) of the German Insolvency Code (Insolvenzordnung) applies; or

- f) if and where in the two years immediately preceding the date of the Balancing Group Contract any other Balancing Group Contract previously made between the Market Area Manager and the Balancing Group Manager was lawfully terminated for cause pursuant to section 37(3)(b) of the Balancing Group Contract.

The Market Area Manager may also require the Balancing Group Manager to provide reasonable security or to make advance payment where it has reasonable grounds for believing, based on a report provided by a generally recognised credit reporting agency or based on any other factual circumstances, that the Balancing Group Manager will not meet its obligations under the Balancing Group Contract, unless the Balancing Group Manager provides suitable evidence of its creditworthiness within 5 Business Days of receiving a request to this effect from the Market Area Manager. To this end, suitable documents evidencing creditworthiness may be submitted, such as a certificate issued by a certified public accountant, a confirmation of adequate liquidity issued by a credit institution duly authorised to operate in the Federal Republic of Germany, a recent annual report, a company register record, or if necessary any other information supporting creditworthiness.

Without prejudice to the foregoing provision, the Market Area Manager shall in any event be deemed to have reasonable grounds within the meaning of the foregoing provision where the Balancing Group Manager has been rated by a recognised credit rating agency and the Balancing Group Manager's

- Standard & Poors long-term rating is lower than BBB-,
- Fitch long-term rating is lower than BBB-,
- Moody's long-term rating is lower than Baa3,
- Creditreform rating (Credit-Standing Index 2.0) Risk Class I or II (according to Creditreform Rating Map Germany as amended); or if Creditreform rating (Credit-Standing Index 2.0) risk classes are not available for the Balancing Group Manager, in accordance with the Creditreform rating (Credit-Standing Index 2.0) the highest number of points within Risk Class II (according to Creditreform Rating Map Germany as amended) or fewer points.

The same shall apply where the Balancing Group Manager does not have a comparable rating from any other recognised rating agency. Where the Balancing Group Manager has obtained more than one such ratings, the Market Area Manager shall also be deemed to have reasonable grounds if only one of these ratings does not meet the minimum rating requirements set out above.

When requiring the Balancing Group Manager to provide security the Market Area Manager shall fully disclose to the Balancing Group Manager the data and the essential content of the information that gave rise to reasonable grounds within the meaning of this paragraph (2).

3. The types of security that may be provided include unconditional, irrevocable bank indemnity letters, unconditional, irrevocable corporate indemnity letters (e.g. unrestricted letters of comfort and parent company guarantees), and unconditional, irrevocable directly enforceable guarantees provided by a credit institution duly authorised to operate in the Federal Republic of Germany. The Balancing Group Manager shall have the right to decide what type of security to provide. Except where security is requested for the first time, in cases falling within the scope of the last sentence of paragraph (6) or of paragraph (8) below, the Market Area Manager may also accept bank transfers.
4. The Balancing Group Manager shall provide security to the Market Area Manager no later than 7 Business Days after it receives the latter's request for security. In cases falling within the scope of paragraph (2)(d) above, security must be provided within 10 Business Days unless the Balancing Group Manager proves within this time limit that none of the grounds for an insolvency proceeding as provided for in section 17(2) and section 19(2) of the Insolvency Code applies.
5. The requirements for the individual types of security are as follows:
  - a) Bank sureties must be provided in the form of an unconditional, irrevocable and directly enforceable bank indemnity letter or guarantee, either of which must have been issued by a credit institution duly authorised to operate in the Federal Republic of Germany. The credit institution issuing the surety must have a Standard & Poor's long-term rating of A- or better, a Moody's long-term rating of A3 or better, or be part of the German savings and cooperative bank sector.
  - b) As far as corporate sureties are concerned, the company providing the surety must have a Standard & Poor's long-term rating of BBB- or better, a Fitch rating of BBB- or better, a Moody's long-term rating of Baa3 or better or a Creditreform credit rating (Credit-Standing Index 2.0) of Risk Class II or better (according to Creditreform Rating Map Germany as modified from time to time). Furthermore, the corporate surety shall not be in an amount that exceeds 10% of the surety provider's liable equity capital. The Balancing Group Manager shall submit evidence of this to the Market Area Manager when providing the surety.
  - c) Bank transfers made pursuant to paragraph (3), sentence 3 above must be paid to an account specified by the Market Area Manager. The payment shall bear interest at the base rate published by the German Bundesbank on the first bank business day of the respective billing month. Alternatively, the Balancing Group Manager may pledge to the Market Area Manager an account credit balance in respect of any account maintained by the Balancing Group Manager with any credit institution duly authorised to operate in the Federal Republic of Germany.
  - d) Any indemnity or guarantee must generally include a waiver of the surety's defence of voidability, its right to declare a set-off against other claims, and its right to deny performance until all remedies available against the principal debtor have been exhausted, except where the relevant claim is undisputed or an enforceable

judgment has been rendered in respect of that claim. Any directly enforceable indemnity or guarantee must be valid for a duration of at least 12 calendar months and expire no later than two months after the end of the Balancing Group Contract's term.

6. The amount to be secured shall be set at the higher of the following values:
  - a) the maximum monthly amount receivable by the Market Area Manager from the Balancing Group Manager in respect of the last 12 Balancing Group invoices (fees and charges within the meaning of section 31(1), sentence 2) issued to the Balancing Group Manager plus the average monthly amount receivable by the Market Area Manager from the Balancing Group Manager in respect of the last 12 Balancing Group invoices issued to the Balancing Group Manager (fees and charges within the meaning of section 31(1), sentence 2). Where Balancing Group invoices have been issued in respect of one or more but fewer than 12 months, the amount to be secured shall be calculated accordingly based on the Balancing Group invoice(s) (fees and charges within the meaning of section 31(1), sentence 2) thus far issued.
  - b) the anticipated amount receivable by the Market Area Manager from the Balancing Group Manager based on the billable quantities recorded for the period between the last Balancing Group invoice (fees and charges within the meaning of section 31(1), sentence 2) and the date of the request for security. Where allocation data has been successfully corrected by the date M+12 Business Days and/or a clearing process has been run by the date M+2 months - 10 Business Days in accordance with the provisions of the Balancing Group Contract, the relevant proportion of the security provided must be released without undue delay.

Notwithstanding the provisions set out in paragraphs (6)(a) and (b) above, in the case of a new Balancing Group Contract or in the event that a Balancing Group invoice for an invoice amount > €0 does not exist, the Market Area Manager may demand security in the amount of €100,000 if the conditions detailed in paragraph (2) above, such as the existence of reasonable grounds, are satisfied, unless the Balancing Group Manager has already provided security in the amount of €100,000 in accordance with the supplementary terms and conditions governing use of the Market Area Manager's web portals, provided this security has not been released to the Balancing Group Manager. After the Market Area Manager has issued the first six Balancing Group invoices for an invoice amount > €0 to the Balancing Group Manager, the Market Area Manager shall recalculate the amount of the security to be provided in accordance with paragraph (6)(a) and (b) above.

7. The Market Area Manager shall have the right to realise any security provided where it has issued a payment reminder after an occurrence of default and a reasonable time limit as stated in the payment reminder has passed without payment being made. In this case the Market Area Manager may demand that the proportion of the security that has been realised be re-provided in accordance with the requirements outlined in paragraph (8) below. The Balancing Group Manager shall provide any such security within 7 Business Days of the Market Area Manager's request for security.

8. Any security provided must be released without undue delay once the conditions for its being requested, such as the continuation of the grounds for the provision of security, are no longer satisfied. From the date of the request for security, the Market Area Manager shall review whether the grounds for the provision of security continue to apply and also the amount of the security to be provided whenever six Balancing Group invoices for an invoice amount > €0 have been issued. In the process, the Market Area Manager shall also review whether the secured amount meets the specifications defined in paragraph (6) above. Where the aforementioned review reveals that the realisable value of all security provided exceeds the value to be applied pursuant to paragraph (6) above for more than a temporary period, the Market Area Manager shall release the relevant proportion of the security provided. Where multiple securities have been provided, the Market Area Manager may choose at its discretion which security to release. Where the realisable value of all security provided is significantly lower than the value to be applied pursuant to paragraph (6) above, the Market Area Manager shall be entitled to require the Balancing Group Manager to adjust the amount of the security provided.
9. The security and advance payment provisions set out in these Balancing Group Contract Terms & Conditions shall not apply as between the exchange clearing bank and the Market Area Manager.

## **29 Advance Payment**

1. The Market Area Manager may in justified cases as defined in section 28(2) above require the Balancing Group Manager to make advance payment for the purpose of securing the claims arising under this contract. In each such case the Market Area Manager shall give notice to the Balancing Group Manager in Text Form to explain its reasons for requiring advance payment from the Balancing Group Manager.
2. At the request of the Market Area Manager, all amounts payable in respect of the following month (Delivery Month) shall be fully paid in advance.
  - a) The Market Area Manager shall have the right to require the Balancing Group Manager to make advance payments on a monthly basis.
  - b) The amount to be paid in advance shall be subject to monthly reviews and shall be set so as to correspond to the anticipated fees and/or charges payable by the Balancing Group Manager in each case. When determining this amount the Market Area Manager shall give due consideration to the specific circumstances prevailing in each case. The Market Area Manager shall notify the Balancing Group Manager of the amount to be paid in advance in respect of each Delivery Month by the 13th Business Day of the month preceding the relevant Delivery Month. Each advance payment shall be sent to the account of the Market Area Manager by the 3rd Business Day of the relevant Delivery Month using a fixed value date.
  - c) Each advance payment made by the Balancing Group Manager shall be reconciled against the actual fees and/or charges payable by the Balancing Group Manager on

a monthly basis by the 13th Business Day of the following month; any and all differences arising as a result of this reconciliation shall be settled monthly and separately, with no set-off against other amounts receivable being permitted.

- d) Where any advance payment is not or not fully paid or not paid on time, the Market Area Manager shall have the right to terminate the relevant Balancing Group Contract with immediate effect.
  - e) The Market Area Manager may provide for intervals other than monthly intervals in respect of advance payments in its supplementary terms and conditions.
3. The amount payable in advance shall be set at the average monthly amount receivable by the Market Area Manager from the Balancing Group Manager in respect of the Balancing Group invoices (fees and charges within the meaning of section 31(1), sentence 2) issued to the Balancing Group Manager during the last 12 months. Where Balancing Group invoices have been issued in respect of one or more but fewer than 12 months, the amount to be secured shall be calculated accordingly based on the Balancing Group invoice(s) (fees and charges within the meaning of section 31(1), sentence 2) thus far issued. If in any one case, considering the specific circumstances of each such case, it can be reasonably expected that the actual amount receivable by the Market Area Manager from the Balancing Group Manager in respect of the Balancing Group invoices (fees and charges within the meaning of section 31(1), sentence 2) issued to the Balancing Group Manager will be significantly lower or significantly higher than the calculated average amount receivable, the Market Area Manager shall duly take this into account when determining the amount to be paid in advance. A significant difference within the meaning of this paragraph shall be any difference of 10% or higher.
4. Where and to the extent that the amount payable in advance is significantly lower than the actual amounts receivable by the Market Area Manager in respect of the Balancing Group invoices (fees and charges within the meaning of section 31(1), sentence 2) issued to the Balancing Group Manager, the Market Area Manager may demand that the advance payments be increased with effect from the next calendar month by giving notice in writing (Text Form) to this effect to the Balancing Group Manager. Where and to the extent that the amount payable in advance is significantly higher than the actual amounts receivable by the Market Area Manager in respect of the Balancing Group invoices (fees and charges within the meaning of section 31(1), sentence 2) issued to the Balancing Group Manager, the Market Area Manager shall reduce the amount payable in advance with effect from the next calendar month by giving notice in writing (Text Form) to this effect to the Balancing Group Manager. An advance payment shall be deemed “significantly” higher or lower than the actual amount billed in the Balancing Group invoice (fees and charges within the meaning of section 31(1), sentence 2) if it differs from that amount by 10% or more.
5. The Market Area Manager shall notify the Balancing Group Manager separately of all practical details relating to advance payments when requesting such payments.

6. The Balancing Group Manager's obligation to make advance payment shall end once the conditions entitling the Market Area Manager to require security in accordance with section 28 above are no longer satisfied.
7. The security and advance payment provisions set out in these Balancing Group Contract Terms & Conditions shall not apply as between the exchange clearing bank and the Market Area Manager.

### **30 Amendment of Contract**

1. The Market Area Manager shall have the right to amend the terms and conditions set out in this contract with immediate effect where necessary to comply with applicable laws or regulations and/or legally binding orders made by national or international courts or authorities, including but not limited to administrative rulings and related notifications issued by the Federal Network Agency, and/or to comply with generally accepted technical standards. In each such case the Market Area Manager shall notify the Balancing Group Manager thereof without undue delay. Where any amendment made to the Balancing Group Manager's contract would result in a significant commercial disadvantage for the Balancing Group Manager, the Balancing Group Manager shall have the right to terminate its contracts with effect from the end of the month following the effective date of any such amendment by giving 15 Business Days' notice. No compensation shall be payable in this respect. This provision shall apply accordingly to any amendment required to be made in the context of a further consolidation of the existing market areas.
2. In addition, the Market Area Manager shall have the right to amend the terms and conditions set out in this contract with effect for the future in cases other than those falling within the scope of paragraph (1) above if and where the Market Area Manager has a legitimate interest to modify the existing contractual arrangements governing energy balancing. A legitimate interest within the meaning of this paragraph shall in particular, without limitation, be deemed to be given where the amendment in question is made to provide standardised terms and conditions for Balancing Group Contracts in accordance with section 3(2) of the Access Regulations. The Market Area Manager shall notify the Balancing Group Manager of the amended contract terms and conditions in Text Form no later than 2 months before the effective date of the relevant amendments and shall publish the amended contract terms and conditions on its website. The Market Area Manager shall in justified cases have the right to apply a notice period other than the one stated in sentence 3 of this paragraph. The Balancing Group Manager shall be deemed to have accepted any such amendment of the contract terms and conditions unless the Balancing Group Manager terminates this contract within 15 Business Days of being notified thereof. In the latter case the termination will take effect from the date on which the amendment in question comes into force. No compensation shall be payable in this respect. The Market Area Manager shall notify the Balancing Group Manager of the start of the relevant termination notice period and of the resulting effect in the event that the Balancing Group Manager does

not exercise its right to termination, i.e. acceptance of the amended contract terms and conditions.

3. Changes to fees and charges shall be made in accordance with the provisions set out in section 31 below.

### **31 Changes to Fees and Charges**

1. In respect of the services provided under this contract the Balancing Group Manager shall pay to the Market Area Manager all relevant fees and charges as determined in accordance with this contract. Relevant fees and charges within the meaning of sentence 1 of this paragraph are SLP and RLM Balancing Neutrality Charges, Within-Day Flexibility Charges, Conversion Fees, Conversion Neutrality Charges, VTP Fees, charges in respect of RLM Quantity Differences and Daily Imbalance Charges.
2. Any fee or charge payable under this contract may only be increased and/or reduced in the circumstances provided for under this contract or where necessary to comply with applicable laws or regulations and/or legally binding orders made by national or international courts or authorities, including but not limited to administrative rulings and related notifications issued by the Federal Network Agency, and/or to comply with generally accepted technical standards.
3. As a rule, fees and charges may only be changed with effect from the first day of a month. The Market Area Manager shall publish any changes on its website and shall generally notify the Balancing Group Manager thereof by email no later than 1 month ahead of the first day of the month from which the relevant change is to take effect. Where the Market Area Manager does not comply with the aforementioned notice period in publishing any changes on its website, the relevant change will not take effect until the first day of the following month.

Notwithstanding the provisions set out in sentences 1 to 3 above, in the event that the applicable Conversion Fee is to be changed with the approval of the Federal Network Agency pursuant to section 23(2) above, the Market Area Manager shall publish this and notify the Balancing Group Manager thereof by email, generally no later than 2 weeks ahead of the date on which the changed Conversion Fee is to take effect.

In urgent cases requiring a change to the applicable Conversion Fee with the approval of the Federal Network Agency pursuant to section 23(2) above, the Market Area Manager shall publish this and notify the Balancing Group Manager thereof by email no later than 2 days ahead of the date on which the changed Conversion Fee is to take effect. In particular, without limitation, an urgent case shall be deemed to be established where during any validity period the proportion of the low CV gas quantities purchased and used in the course of External System Balancing Actions relative to the total quantity of low CV gas physically offtaken from the relevant market area equalled 50% or more on four or more consecutive gas days.

4. Where any price pursuant to paragraph (1) above is changed, the Balancing Group Manager shall have the right to terminate the contract it has entered into with the Market Area Manager by giving 2 weeks' notice in writing ahead of the date on which the relevant change is to take effect.

### **32 Invoicing and Payment**

1. The rules for invoicing and advance payments, where applicable, shall be governed by the Market Area Manager's published supplementary terms and conditions.
2. If there is a distinct possibility that an invoice contains an obvious error, the Balancing Group Manager shall have the right to postpone or refuse payment.
3. The Market Area Manager shall have the right to charge a general late payment fee to compensate for any loss or damage it suffers as a consequence of any default. The Balancing Group Manager, however, shall have the right to submit evidence that the actual loss or damage suffered by the Market Area Manager as a consequence of the default in question was lower than the amount charged as a general late payment fee.
4. Any complaints concerning the accuracy of any invoice must be filed without undue delay but in no event later than 4 weeks after receipt of the relevant invoice. Where the Balancing Group Manager has been unable to identify a complaint through no fault of its own, a complaint may still be filed after expiry of the aforementioned period without undue delay upon the filing party's becoming aware of the issue giving rise to the complaint but no later than 3 years after the invoice to be corrected was received.
5. In cases falling within the scope of section 13(2) and (3) the relevant Balancing Group invoice will be cancelled and a new Balancing Group invoice will be issued based on the revised data.

### **33 Taxes**

1. Where under the relevant contract the Market Area Manager supplies gas quantities to a Balancing Group Manager who is not a supplier within the meaning of section 38(3) of the German Energy Tax Act (EnergieStG), the Balancing Group Manager shall pay the applicable fees and/or charges plus energy tax at the applicable rate.

Where gas quantities are supplied to a Balancing Group Manager who is a registered supplier within the meaning of section 38(3) of the Energy Tax Act, the Balancing Group Manager shall provide evidence to the Market Area Manager that it meets the requirements of section 38(3) of the Energy Tax Act by submitting a current registration certificate issued pursuant to section 78(4) of the Energy Tax Act Implementation Regulations (EnergieStV) by the responsible customs administration office which confirms that the Balancing Group Manager is entitled to purchase gas quantities without application of the relevant tax in its capacity as a registered supplier. Relevant documentation confirming that the requirements of section 38(3) of the Energy Tax Act are met shall be submitted to the Market Area Manager no later than one week before

the date of delivery. Where within that period the Balancing Group Manager fails to submit adequate documentation confirming that the requirements of section 38(3) of the Energy Tax Act are met, the Market Area Manager shall have the right to invoice the relevant fees and/or charges payable in respect of the relevant gas quantities to the Balancing Group Manager plus energy tax at the applicable rate.

If the Balancing Group Manager is not or no longer a supplier within the meaning of section 38(3) of the Energy Tax Act, it shall promptly notify the Market Area Manager thereof in writing. If the address, company name or legal form of the Balancing Group Manager changes, the Balancing Group Manager shall submit an updated registration certificate issued by the relevant customs administration office. Where the Balancing Group Manager fails to notify the Market Area Manager in accordance with this paragraph or where it does not comply with its notice obligation within the applicable time limits, the Balancing Group Manager shall reimburse the Market Area Manager for any energy tax payable by the Market Area Manager as a consequence of such failure or delay.

2. Where any tax or other public charge to be levied on any fee or charge payable under the relevant contract, including any tax or other public charge to be levied on the services that form the basis for such fee or charge, is introduced, abolished or modified, the Market Area Manager shall implement the corresponding increase or reduction of the relevant fee or charge payable under the relevant contract with effect from the date on which the introduction, abolition or modification of such tax or other public charge comes into force. This shall apply accordingly where any other fee or charge is introduced, abolished or modified by way or as a result of national or European legislation, administrative decisions or any other orders issued by any competent authority.
3. All fees and charges payable under the relevant contract shall be listed before application of taxes. The Balancing Group Manager shall pay any applicable taxes in addition to the relevant fees and/or charges.
4. All fees and charges payable under the relevant contract and this section, together with any surcharges levied thereupon, shall represent the relevant value for the purposes of the German Value Added Tax Act (UStG; hereinafter "VAT Act") and do not include value added tax (VAT). Save where the reverse charge procedure applies, the Balancing Group Manager shall pay value added tax to the Market Area Manager at the applicable rate as determined based on the relevant value. Where invoices are issued under self-billing arrangements within the scope of sentence 2 of section 14(2) of the VAT Act, the relevant invoices must include the mention "self-billing" (section 14(4)(10) of the VAT Act).

### **34 Force Majeure**

1. Either Party shall be released from its contractual obligations where and to the extent that it is prevented from performing such obligations due to an Event of Force Majeure

as defined in paragraph (2) below. To the extent and for such time as that Party is prevented from performing its obligations due to an Event of Force Majeure, the other Party shall be released from its corresponding obligations.

2. For the purposes of this contract, an Event of Force Majeure means any unforeseeable external circumstance which the Party affected could not have been expected to prevent or could not have prevented in good time even by applying reasonable care and taking such measures as would have been technically feasible and commercially reasonable. Such events include, without limitation, natural disasters, terrorist attacks, power failures, telecommunications failures, strikes, lawful lockouts, legal requirements and government, court or official orders (regardless of their legality).
3. The Party affected in each case shall notify the other Party without undue delay, stating the reasons for the occurrence of the Event of Force Majeure and its expected duration. In any such case, the Party affected shall make an effort to take all technically feasible and commercially reasonable steps to resume the performance of its obligations as soon as possible.
4. Where a Party makes use of services by a third party to perform its contractual obligations, an event that would constitute an Event of Force Majeure for that third party as defined in paragraph (2) above shall also constitute an Event of Force Majeure for that Party.

### **35 Liability**

1. The Parties shall be mutually liable for loss of life, personal injury or damage to health, except where the relevant Party, or the legal representative or vicarious agent acting on its behalf, as the case may be, acted neither wilfully nor negligently.
2. The Parties shall be mutually liable for any financial loss or damage to property suffered as a result of a breach of a material contractual obligation, except where the breaching Party, or the legal representative or vicarious agent acting on its behalf, as the case may be, acted neither wilfully nor with gross negligence; where any such financial loss or damage to property was caused due to minor negligence, the liability of the Parties shall be limited to such foreseeable loss or damage as is typical for the relevant type of contract.
  - a) For the purposes of this contract, a material contractual obligation means any obligation the performance of which is absolutely essential to the proper execution of this contract and compliance with which the Parties generally do and may reasonably rely on.
  - b) For the purposes of this contract, a foreseeable loss or damage that is typical for the relevant type of contract means any loss or damage the relevant Party foresaw as a possible consequence of any breach of contract or that it should have foreseen in light of the circumstances known to that Party, or in light of any circumstance it should have had knowledge of had it exercised due care.

- c) In relation to the type of transactions in question a typical damage to property can be expected to amount to EUR 2.5 million, a typical financial loss to EUR 1.0 million.
3. The Parties shall be mutually liable for any financial loss or damage to property suffered as a result of a breach of a non-material contractual obligation, except where the breaching Party, or the legal representative or vicarious agent acting on its behalf, as the case may be, acted neither wilfully nor with gross negligence.
- a) The liability of the Parties for any financial loss or damage to property caused due to gross negligence on the part of the breaching Party, or on the part of the legal representative or any senior vicarious agent acting on its behalf, as the case may be, shall be limited to such foreseeable loss or damage as is typical for the relevant type of contract.
- b) The liability of the Parties for any loss or damage caused due to gross negligence on the part of any so-called ordinary vicarious agent acting on behalf of the breaching Party shall be limited to EUR 1.5 million in the case of damage to property and to EUR 0.5 million in the case of financial loss.
4. Sections 16 and 16a of the German Energy Industry Act (EnWG) shall remain unaffected. Measures within the meaning of sections 16(2) and 16a of the Energy Industry Act may also include any action taken to secure the gas supply of residential customers in accordance with section 53a of the Energy Industry Act.
5. Any liability either Party may incur under the mandatory provisions of the German Liability Act (*Haftpflichtgesetz*) or any other legal provision shall remain unaffected.
6. The provisions set out in paragraphs (1) to (5) above shall also apply to the benefit of the legal representatives, employees and vicarious agents acting on behalf of a Party insofar as they apply to that Party.

### **36 Term**

This contract shall run for an indefinite period of time. Upon expiry of one year following the end of the month during which Entry or Exit Points were last assigned to the relevant Balancing Group or during which nominations were last made in respect of such Points or during which nominations were last submitted in respect of Virtual Entry or Exit Points, the Market Area Manager shall have the right to notify the Balancing Group Manager of the contract's termination by giving one month's notice to this effect to the Balancing Group Manager in writing. The Balancing Group Manager shall have the right to object to the termination of its contract by giving notice to this effect in writing. Sentences 2 and 3 of this paragraph shall apply accordingly from the date on which the objection is raised.

### **37 Suspended Performance and Termination**

1. The Market Area Manager shall have the right to suspend the performance of any contractual service, or to adjust that service, where and to the extent that such service can no longer be provided by the Market Area Manager due to the application of

sections 16 and 16a of the Energy Industry Act by a Network Operator. Where the Market Area Manager has suspended or adjusted any contractual service, the Parties shall resume performance of their respective obligations without undue delay once the grounds for suspension or adjustment of that service no longer apply.

2. Either Party shall have the right to terminate this contract with effect from the end of any given calendar month by giving 3 months' written notice by letter, email or fax. The Market Area Manager, however, may only terminate this contract where it is not or no longer required to provide network access under the Energy Industry Act, the Access Regulations or any other legal provision, or where in terminating the contract it simultaneously offers to enter into a new Balancing Group Contract with the Balancing Group Manager that is in compliance with the provisions of the Energy Industry Act, the Access Regulations or any other legal provision.

3. This contract may be terminated for cause with immediate effect by written notice to be provided by the terminating Party by letter, email or fax.

Due cause shall in particular, without limitation, be given where

- a) either Party has repeatedly and seriously breached any material provision of this contract despite having been issued with a warning notice,
  - b) the Balancing Group Manager has failed to comply with its obligation to provide security in accordance with section 28 or to make advance payment in accordance with section 29 within the applicable time limits or where it has not fully complied with any such obligation or
  - c) any essential information provided by the Balancing Group Manager as part of the admission process turns out to be incorrect or incomplete or the Balancing Group Manager has failed to notify the Market Area Manager without undue delay of any essential changes concerning the information provided and performance of the Balancing Group Manager's obligations under this contract could be adversely affected or jeopardised to a significant extent, unless the Balancing Group Manager has acted neither with intent nor with gross negligence in providing this incorrect or incomplete information or in failing to notify the Market Area Manager of the relevant changes.
4. Notwithstanding the provisions set out in paragraph (3) (a) above, the Market Area Manager shall also have the right to terminate a Balancing Group Contract without this requiring a repeated breach on the part of the Balancing Group Manager and without the Market Area Manager having to issue a warning notice if special circumstances apply under which termination is justified after weighing the interests of both Parties.

A justified case will be deemed to be given where a Balancing Group Manager seriously breaches section 5 above by allowing that a Balancing Group registered by the Balancing Group Manager incurs a substantial short position by the end of a gas day despite the Market Area Manager having tried during that gas day to first make contact by telephone with the 24/7 contact registered by the Balancing Group Manager before

then also sending a notice to the Balancing Group Manager by email or fax without undue delay requesting that the Balancing Group Manager nominate additional inputs and/or renominate down its nominated offtakes before the end of the relevant gas day so as to ensure that the Balancing Group in question is no longer substantially short at the end of that gas day (each such notice an "Imbalance Alert Notice"). A Balancing Group will generally be deemed to be in a substantial short position if it comprises only nomination-type Exit Points (i.e. Exit Points at which nominations are required) on its exit side and the total offtakes to be offtaken from the Balancing Group by the end of the relevant gas day exceed the total inputs by more than 10%, provided this difference is greater than 10,000 MWh.

If the conditions for application of section 17 above are satisfied and linking arrangements are in place, the Market Area Manager shall take the netting of inputs and offtakes in the designated Balancing Group pursuant to section 17(1)(a) into account in determining whether a Balancing Group is in a substantial short position.

On receiving an Imbalance Alert Notice in accordance with this paragraph (4), sentence 2 from the Market Area Manager, the Balancing Group Manager shall within four hours of receiving said notice provide proof to the Market Area Manager confirming that the nomination(s) and/or renomination(s) required to remove the substantial short position of the Balancing Group have been made. If this deadline passes without the Balancing Group Manager having provided said proof, the output nominations submitted by the Balancing Group Manager at the Virtual Trading Point may be set to zero for the remainder of the gas day in question. In addition, the Market Area Manager can instruct the TSOs in the market area to set output nominations at Exit Points allocated to this Balancing Group to a position of zero.

The Market Area Manager shall inform the Balancing Group Manager who has registered the acquiring Balancing Group for which the corresponding input nomination has been submitted of the resulting mismatch(es) without undue delay by sending an electronic message in the applicable data format and shall in addition make an effort to also notify the Balancing Group Manager of the mismatch(es) in another way in line with section 10(8) above.

When terminating a Balancing Group Contract for cause with immediate effect in accordance with this paragraph (4), the Market Area Manager shall provide notice of termination together with the relevant Imbalance Alert Notice, with the termination in this case being subject to a condition precedent as defined in section 158(1) of the German Civil Code. If the Balancing Group continues to be in a substantial short position at the end of the gas day to which this termination notice relates, the termination will take effect at the end of that gas day.

5. Where a Balancing Group Contract is terminated under paragraphs (3)(a) or (4) above, the Market Area Manager shall have the right to also terminate with immediate effect any other Balancing Group Contract(s) in force between the Market Area Manager and the Balancing Group Manager.

6. If a Balancing Group Contract is terminated without notice by the Market Area Manager or a Balancing Group Contract is rescinded, the Market Area Manager, in compliance with section (39) below, shall notify the other market area managers, the TSOs and the affected DSOs in the market area of this by e-mail without undue delay, specifying the Balancing Group Number and the Balancing Group Manager.

### **38 Data Disclosure and Data Processing**

The Market Area Manager shall have the right to disclose consumption, billing and contract data to Network Operators as well as to the exchange clearing house where and for such time as this is necessary to ensure proper performance of the relevant contract. The Balancing Group Manager hereby gives its consent for the Market Area Manager, or any third party commissioned by the Market Area Manager, to process the relevant data using automated data processing methods in accordance with the applicable data protection laws. For the purpose of publication on a portal accessible to Network Operators and Balancing Group Managers or for submission by way of a declaration notice, the Balancing Group Manager shall notify the Market Area Manager of its relevant contact persons in compliance with the applicable data protection laws.

#### **38a Formats and data interchange**

The Market Area Manager shall define the applicability of the relevant cross-association specifications drawn up by the edi@energy expert group under the project management of BDEW, particularly in the documents "Transmission Path Regulations" and "General Specifications", in relation to the Balancing Group Manager in the Supplementary Terms and Conditions.

### **39 Confidentiality**

1. Save as otherwise provided in paragraph (2) of this section 39 and in section 38 above, the Parties shall treat as confidential all provisions set out in each contract as well as any and all information they obtain in connection therewith (hereinafter referred to as "Confidential Information") and shall not disclose or make available any such Confidential Information to any third party without the affected Party's prior written consent. Each Party hereby undertakes to use any Confidential Information solely for the purpose of performing the relevant contract.
2. Each Party shall be entitled to disclose any Confidential Information it has obtained from the other Party in connection with this contract without the written consent of the other Party
  - a) to an affiliated entity, provided that such entity is subject to an equivalent confidentiality requirement,

- b) to its shareholders, representatives, consultants, banks, insurers and the exchange clearing house where and to the extent that disclosure is required to ensure the proper performance of the relevant contractual obligations, and provided that such persons or entities have undertaken to keep such Confidential Information confidential prior to their receipt thereof or are subject to a statutory professional confidentiality requirement in respect of such Confidential Information,
  - c) to the extent that such Confidential Information was legitimately known to the receiving Party prior to receiving such Confidential Information from the other Party, already in the public domain or becomes publicly available other than through an act or omission of the receiving Party, or must be disclosed by the disclosing Party under any statutory provision or a court or official order or a request received from a regulatory authority, or
  - d) in cases falling within the scope of sections 28, 29 and 37 above, or where a Balancing Group Contract has been rescinded, to any other Market Area Manager, to any national or contiguous TSO and to any DSO affected, provided the receiving entity undertakes an equivalent obligation to keep this Confidential Information in confidence. In determining whether to disclose any Confidential Information, the disclosing Party shall give due consideration to the interests of the other Party affected.
3. The obligation to uphold confidentiality in accordance with this section shall end 2 years after the date on which the relevant contract comes to an end.
  4. Section 6a of the Energy Industry Act shall remain unaffected.

#### **40 Changes in Circumstances**

1. Where during the term of any contract unforeseen circumstances should arise in respect of which no provision has been made in the contract or in the supplementary terms and conditions applicable in relation thereto, or which the Parties failed to take into account when entering into the contract, and where such circumstances have such significant commercial, technical or legal impact on that contract so as to render any provision of that contract untenable for either Party, the affected Party shall have the right to require its counterparty to agree to a corresponding amendment of the contract's terms that duly reflects any such changed circumstances whilst having regard to all commercial, technical and legal implications this would have for the counterparty.
2. Where either Party pleads such circumstances, that Party shall be required to specify and prove the pertinent facts.
3. Save where the pleading Party could not be reasonably expected to raise such demand at an earlier time, the pleading Party's right to have the contract amended shall arise at the first time that Party raises a demand to amend the contract's terms on the grounds of changed circumstances.

#### **41 Assignment**

1. Neither Party shall transfer this contract to any third party unless the other Party hereto has given its prior consent to such transfer. Consent may only be withheld for due cause.
2. Any transfer pursuant to paragraph (1) above to an affiliated entity as defined by section 15 of the German Joint Stock Corporation Act (AktG) shall not require prior consent but shall be notified to the other Party in writing.

#### **42 Contact Persons**

The contact details of the Market Area Manager's contacts for questions concerning this contract shall be published on the Market Area Manager's website alongside information about their availability.

#### **43 Severability**

1. If any provision set out in this contract or any appendix hereto is, becomes or is held to be invalid or unenforceable, it shall not serve to invalidate the remaining provisions set out in this contract or any appendix hereto, which shall remain in full force and effect as if such provision had not originally been contained in this contract or the relevant appendix.
2. The Parties hereby undertake to cooperate to replace any such invalid or unenforceable provision by a valid and enforceable provision having as far as reasonably possible the commercial effect of the invalid or unenforceable provision it is to replace and to select an appropriate procedure to do so. This shall apply accordingly where any provision is found to be incomplete.

#### **44 Jurisdiction and Governing Law**

1. Any disputes arising under or in connection with this contract shall be subject to the jurisdiction of the ordinary German courts.
2. Any such dispute shall be settled by the courts at the place of the Market Area Manager's registered office.
3. This contract shall be governed by German law to the exclusion of any interstate conflict of law provisions except where bindingly applicable. The UN convention on the international sale of goods (CISG) shall not apply.

#### **45 Index of Appendices**

The appendices listed below shall constitute an integral part of this contract:

Appendix 1: Definitions

Appendix 2: Supplementary Energy Balancing Provisions for Biogas



## Appendix 1: Definitions

1. **“Exit Network Operator”** means any Network Operator with whom a Shipper has entered into an exit agreement pursuant to sentence 1 of section 3(1) of the Access Regulations, including exit agreements signed in the form of Supplier Framework Agreements.
2. **“Exit Point”** means any point within a market area where a Shipper can offtake gas from a Network Operator’s network for the purpose of supplying that gas to end users or injecting it into storage, or any point where gas may be transported across market area borders or national borders. Where several Exit Points on a transmission system have been combined to form a zone pursuant to section 11(2) of the Access Regulations, such group of Exit Points is also deemed to constitute an Exit Point within the meaning of this definition.
3. **“Balancing Period”** as used in relation to all gas quantities other than biogas quantities recorded for a Biogas Balancing Group means a period of one gas day.
4. **“Balancing Group Number”** refers to a unique number assigned to a Balancing Group Manager by a Market Area Manager in relation to a Balancing Group and which principally serves as a reference to identify nominations and renominations made in respect of gas quantities.
5. **“Entry Network Operator”** means any Network Operator with whom a Shipper has entered into an entry agreement pursuant to sentence 1 of section 3(1) of the Access Regulations.
6. **“Entry Point”** means any point within a market area where a Shipper may deliver gas to a Network Operator’s network from another country or market area, a domestic source, a production facility, an LNG or biogas plant or a storage facility. Where several Entry Points on a transmission system have been combined to form a zone pursuant to section 11(2) of the Access Regulations, such group of Entry Points is also deemed to constitute an Entry Point within the meaning of this definition.
7. **“External System Balancing Tool”** means any balancing tool within the meaning of section 27(2) of the Access Regulations (with each balancing action that is taken using such a tool being referred to as an “External System Balancing Action”).
8. **“GaBi Gas 2.0”** means the administrative ruling on gas balancing handed down by the Federal Network Agency on 19 December 2014 (ref: BK7-14-020).
9. **“Gas Year”** means the period commencing at 06:00 hours on 1 October of each calendar year and ending at 06:00 hours on 1 October of the following calendar year.
10. **“GeLi Gas”** means the administrative ruling on uniform business processes and data formats handed down by the Federal Network Agency on 20 August 2007 (ref: BK7-06-067), or any other administrative ruling by the Federal Network Agency that repeals or supplements this ruling.

11. **“Mini-Müt”** means any transfer of a Shipper's gas quantities between Balancing Groups registered in different market areas that is carried out at distribution level.
12. **“M”** in relation to a month means the **“Delivery Month”**. “Delivery Month” refers to the period commencing at 06:00 hours on the first day of the Delivery Month and ending at 06:00 hours on the first day of the following month.
13. **“Balancing Subgroup”** means an account registered in relation to a Balancing Group which allows the relevant Balancing Group Manager to allocate inputs and offtakes to individual Shippers and/or to maintain a clear overview of certain quantities.
14. **“D”** in relation to a day means the **“Delivery Day”**, i.e. the period commencing at 06:00 hours on that day and ending at 06:00 hours on the following day.
15. **“Virtual Exit Point”** refers to a non-bookable Exit Point in a Balancing Group via which gas can be transferred to another Balancing Group.
16. **“Virtual Entry Point”** refers to a non-bookable Entry Point in a Balancing Group via which gas can be transferred from another Balancing Group.
17. **“Maximum Hourly Supply Rate”** in relation to an Entry or Exit Point connected to a distribution network that operates a postage-stamp tariff system, means the maximum possible hourly gas flow as determined for that point at the network's design conditions.
18. **“Business Day”** as used in relation to any deadline, and as opposed to the definition given in section 2, No. 16 of the Access Regulations, means any day other than a Saturday, Sunday or public holiday. Any day recognised as a public holiday in any German state shall be considered a national holiday. The 24th and 31st of December shall always be deemed to be public holidays.