Terms and Conditions

for External System Balancing Actions

(hereinafter referred to as "System Balancing Terms & Conditions")

TRADING HUB EUROPE
keep in balance

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Whereas

In compliance with its obligations under the German Gas Third-Party Access Regulations (*Gasnetzzugangsverordnung - GasNZV*) as amended from time to time as well as in accordance with the requirements set out in the administrative ruling on gas balancing (implementation of the Network Code on Gas Balancing of Transmission Networks) handed down by the German national regulatory authority Bundesnetzagentur (hereinafter referred to as "Federal Network Agency") on 19 December 2014 (ref: BK7-14-020; the so-called "GaBi Gas 2.0" decision) and the official notifications issued by the regulator in relation thereto, Trading Hub Europe as the market area manager (hereinafter referred to as "MAM") takes market-based system balancing actions (hereinafter referred to as "External System Balancing Actions") to physically balance the gas supply networks in its market area and enters into system balancing transactions with third parties (hereinafter referred to as "External System Balancing Transactions") to procure the gas quantities it requires for this purpose.

Section 22(1) of the German Energy Industry Act (*Gesetz über die Elektrizitäts- und Gasversorgung - EnWG*) imposes an obligation on the operators of energy supply networks to procure the energy they require to balance imbalances in a transparent, non-discriminatory and market-based process. We use balancing gas in accordance with Section 27 GasNZV to the extent technically necessary to balance fluctuations in network load with the aim of ensuring technically secure and efficient network operation in the single German market area.

The MAM applies these principles when taking External System Balancing Actions. Each balancing group manager in the MAM's market area who has successfully prequalified in accordance with the "Prequalification Rules for Participation in the Bilateral Balancing Market and Terms of Use for the Bidding Platform of Trading Hub Europe GmbH" (hereinafter referred to as "Prequalification Rules") (hereinafter referred to as "Provider") may participate in the MAM's bilateral market subject to the following conditions and regulations. As a rule, balancing buy transactions via the MAM's bilateral balancing market should be the last resort on the part of the MAM to ensure network stability and security and to either buy balancing gas quantities required or sell surplus quantities. All contracts to be made with market participants offering to supply or receive the gas required for this purpose will be governed by the terms and conditions set out herein.

1 Object of Contract

(1) The Terms and Conditions for External System Balancing Actions set out herein, including any and all appendices constituting an integral part hereof in accordance with section 21 below, provide the contractual framework for all individual contracts (each a

"System Balancing Transaction Agreement") to be entered into by the MAM and the Provider in relation to any External System Balancing Action taken by the MAM using any of the following products (hereinafter referred to as "Balancing Products"):

(a) Long-Term Options (LTO), "Rest of the Day" (RoD) product variant: LTO RoDs are long-term Balancing Products used to ensure the MAM can buy (SystemBuy) or sell (SystemSell) the gas quantities it may need to balance any physical gas imbalances occurring within its market area.

(b) Long Term Options, "Hourly" (S) product variant: LTO Hourly (S) products are long-term Balancing Product used to ensure the MAM can buy (SystemBuy) or sell (SystemSell) the gas quantities it may need for short-term structuring purposes.

(c) Short-Term Balancing Services (STB): STBs are Balancing Products additionally tendered by the MAM so that it can buy (SystemBuy) or sell (SystemSell) the gas quantities it may need to balance any physical gas imbalances occurring within its market area at short notice.

(d) Short-Call Balancing Services (SCB): SCBs are long-term Balancing Products used to ensure the MAM can buy (SystemBuy) or sell (SystemSell) quantities for short-term structuring purposes.

(e) Flexibility Services (FLEX): FLEX products are long-term Balancing Products used to ensure that the MAM can temporarily supply (park) or receive (borrow) gas quantities to from the Provider to meet short-term flexibility requirements.

(2) The individual Balancing Products are defined in greater detail in the corresponding product descriptions (hereinafter referred to as "Balancing Product Descriptions") attached as appendices hereto.

2 Acknowledgement of the System Balancing Terms & Conditions, Relationship to the Balancing Product Descriptions

(1) The Provider agrees to these System Balancing Terms & Conditions, their appendices and, where applicable, other terms and conditions set out in an invitation to tender each time it submits a bid for a Balancing Product by ticking the "I accept the Terms and Conditions" box provided for this purpose in the bidding screen of the MAM's Bidding

Platform[1]. The aforementioned contractual terms and conditions, as amended are available on the MAM website[2].

(2) Full and unconditional acceptance of the Terms & Conditions pursuant to paragraph (1) is a prerequisite participation in the tendering process.

(3) In the event of any discrepancy between any Balancing Product Description and these System Balancing Terms & Conditions, the provisions set out in the Balancing Product Description as modified from time to time shall prevail. In the event of any discrepancy between these System Balancing Terms & Conditions and the Prequalification Rules, these System Balancing Terms & Conditions shall prevail.

3 General Rules Governing the Tendering Process

(1) The System Balancing Transaction Agreements pursuant to section 1 above shall be concluded via a tendering process.

(2) Invitations to tender may be issued by the MAM for each gas quality or for a generally defined balancing zone ("Balancing Zone") or balancing sector ("Balancing Sector") within a Balancing Zone defined for specific tenders (hereinafter the terms Balancing Zone and Balancing Sector are collectively referred to as "Balancing Zone or Sector"). An overview of the relevant physical entry and exit points including their affiliation to the gas qualities and Balancing Zones is available on the MAM's website. If an invitation to tender relates to a Balancing Sector, the MAM will communicate this fact together with the physical entry and/or exit points in said Balancing Sector when announcing the tender. A Balancing Sector may also have only one single physical entry or exit point.

(3) The subject matter of the tendering process is the conclusion of individual System Balancing Transaction Agreements for the tendered Balancing Product between the Provider and the MAM for the purpose of enabling the MA to take external system balancing actions. The individual System Balancing Transaction Agreement consists of all bids (lots) submitted by the Provider in response to a specific invitation to tender for the same product variant, the same call direction and the same balancing energy zone or sector and accepted by the MAM, the tender condition, these System Balancing

[1] So-called Balancing Services Portal, (https://www.tradinghub.eu/en-gb/Portals/BSP)
[2] www.tradinghub.eu

Terms & Conditions and the respective Balancing Product description.

(4) Invitations to tender for Balancing Products are published on the MAM's website and conducted via the MAM's Bidding Platform. The Provider shall submit bids for the Balancing Product described in the invitation to tender and, if a System Balancing Transaction Agreement is concluded with the MAM upon acceptance of the bids summarised in accordance with section 3 (3) hereinabove, shall be obliged to perform the relevant services in accordance with said Balancing Product.

(5) The tendering process for long-term Balancing Products shall be governed by the following provisions:

(a) The term of the System Balancing Transaction Agreement, i.e. the period in which the Provider must ensure performance of the System Balancing Transaction Agreement for the relevant Balancing Product ("Contract Period"), is usually a weekly, monthly, quarterly, half-yearly or yearly period. Periods of less than a week, month, quarter, half-year and/or year can also be agreed in individual cases. The relevant Contract Period will be published as part of the invitation to tender. It shall in each case commence at the beginning of the first gas day of the period specified as the Contract Period in the invitation to tender (6:00 a.m. on the first calendar day of the period) and end at the end of the last gas day of the specified period (6:00 a.m. on the calendar day following the last calendar day of the period).

(b) The bidding period ("Bidding Period"), i.e. the period during which the Provider may submit bids for a tendered Balancing Product, shall be at least ten (10) business days[3]. The Bidding Period applicable to a tender shall be announced by the MAM on its website at least one (1) week prior to its commencement.

(c) The MAM may, in justified exceptional cases and in derogation of sub-paragraphs (a) and/or (b) above, issue a special invitation to tender. A justified exceptional case shall be deemed to exit in particular if the MAM identifies a demand for a Balancing Product which cannot be met or can no longer be met in time if the requirements set out in sub-paragraphs (a) and (b) above are complied with, or if an identified demand could not be met or not be met in full by a previous invitation to tender. In all other respects, the provisions of these System Balancing Terms &

[3] For the purposes of these System Balancing Terms & Conditions, "business day" means any day between and including Monday to Friday, with the exception of public holidays and the 24th and 31st of December; in this context any public holiday observed in any German federal state is regarded as a public holiday.

Conditions shall apply mutatis mutandis to any special invitation to tender.

(6) For short-term Balancing Products, the MAM will, where required, invite Providers at short notice to supply and/or receive gas quantities during a period of the current gas day described in more detail in the invitation to tender and/or for the following gas day on the Bidding Platform. All Providers will be informed by e-mail about such an invitation to tender and be provided with more detailed information on the actual balancing requirements (call for bids).

4 Submission of Bid

(1) Bids for a Balancing Product put out to tender shall always be issued via the Bidding Platform.

(2) All bids shall be submitted in accordance with the terms of the invitation to tender published by the MAM and shall meet the requirements detailed in the relevant Balancing Product description.

(3) The Provider is entitled to submit several bids for the tendered Balancing Product.

(4) All bids must be correct, complete and not be subject to any conditions or reservations. A bid will be deemed to be complete if it contains all the information to be specified under the provisions set out in the relevant invitation to tender and the applicable Balancing Product Description. The Provider shall be fully and solely responsible for the correctness and completeness of any and all information specified in a bid. Any bid which is not in accordance with the requirements set out in the relevant invitation to tender or the applicable Balancing Product Description, or which is subject to a condition or reservation, or is incomplete or unclear, will not be accepted by the MAM.

(5) When a bid is posted on the Bidding Platform, it is given a time stamp of receipt which is subsequently taken into account in the acceptance of bids in accordance with section 5 (2).

(6) Bids submitted for a long-term Balancing Product may be amended or withdrawn until the end of the respective bidding period. Any such amendment or withdrawal shall made via the Bidding Platform. When the bidding period has ended, the bid will be binding. In the case of tenders for short-term Balancing Products, the Provider may only withdraw its bid if it has not already been accepted by the MAM. Once the bid has been accepted

by the MAM it can no longer be withdrawn. Any withdrawal of bids for short-term Balancing Products shall also be made via the Bidding Platform.

(7) During any period of unavailability of the Bidding Platform, the Provider may submit bids by completing and signing a form and sending it to the e-mail address of the MAM's dispatching centre and may amend or withdraw such bids subject to the conditions set out in clause (6) above. Both the email address and the 24/7 hotline of the dispatching centre are published on the MAM's website.

(8) All costs incurred by the Provider in connection with the submission of its bid shall be borne by the Provider.

5 Acceptance of Bids and Contract Award

(1) As a rule, all bids will be examined from a cost efficiency perspective, taking into account the balancing requirements of the relevant tender.

(2) For this purpose, the bids received for each gas quality or Balancing Zone or Sector put out to tender and – where relevant – for each call direction will be ranked according to their costs, starting with the lowest-cost bid. The costs relevant for the ranking as well as the way in which they are determined are detailed in the relevant Balancing Product description. Where costs are the same, bids submitted earlier will be considered before bids submitted later.

(3) The MAM will then accept the most cost-effective bids in each case until the tendered demand has been met in full. Further details and any ancillary conditions governing bid acceptance are set out in the relevant Balancing Product description and the terms of the relevant invitation to tender.

(4) The MAM may deviate from the principles set out herein or in the relevant Balancing Product description to the extent necessary for reasons of network safety or network stability.

(5) In the case of long-term Balancing Products, acceptance by the MAM of a bid made by the Provider shall constitute a contract between the Provider and the MAM for the Balancing Product pursuant to section 3 (3) offered by the Provider for the relevant Contract Period. The MAM will confirm its acceptance of a bid by e-mail to the Provider. Said e-mail will contain the exact reference numbers of all of the Provider's bids that

have been accepted by the MAM. The Provider shall acknowledge receipt of each such email immediately by sending a confirmation email to the MAM's sender address. This confirmation is required for verification purposes only and does not affect the validity of the System Balancing Transaction Agreement concerned. Providers whose bids have not been accepted by the MAM will also receive notice by email informing them of the bids that have not been accepted. Providers will not be required to confirm receipt of any such email by the MAM. If a System Balancing Transaction Agreement has been concluded between the MAM and the Provider in accordance with the above provisions, the MAM may call for the contracted service to be provided in accordance with the relevant Balancing Product description and in accordance with the provisions in Section 6.

(6) For short-term Balancing Products, the System Balancing Transaction Agreement will be created by the MAM's call pursuant to section 6 below.

(7) The Provider shall not be entitled to demand acceptance of one bid or all of the bids by the MAM.

6 Call Orders

(1) The MAM shall maintain separate merit order lists (MOLs) for each gas day and each balancing criterion for the supply (SystemBuy or Borrowing) and receipt (SystemSell or Parking) of gas quantities by the Providers. In each case, the bids[4] that are equally suitable for addressing the relevant system imbalance are combined into an MOL, taking into account the required lead time and the required delivery/offtake location. The lead time is the maximum period of time allowed between the call order and the start of the actual technical delivery or offtake of the called gas quantities under network aspects. Bids with a lead time exceeding the maximum allowable lead time will not be considered. In order to take account of the required delivery/offtake location, the MAM may, in the case of a quality-specific balancing requirements, disregard all bids that do not meet the required gas quality. If the system imbalance is locally limited, the MAM may disregard bids that relate to a different Balancing Zone or Sector than the one in which the system imbalance has occurred.

(2) Within a merit order list (MOL), the bids will always be ranked according to their

[4] In the context of section 6, "bids" shall mean both the bids already contracted for long-term Balancing Products and the bids submitted in the case of short-term Balancing Products.

commodity charge, i.e. SystemBuy or borrowed quantities will be ranked from the lowest to the highest commodity charge and SystemSell or parked quantities will be ranked from the highest to the lowest commodity charge. Where commodity charges are the same, bids submitted earlier will be considered before bids submitted later.

(3) The MAM will issue its first call order for the bid ranked first on the MOL, then the second bid, etc., until the system balance has either been restored or there are no further bids.

(4) According to the GaBi Gas 2.0 ruling, bids for MOL 1 and MOL 2 Balancing Products traded on the exchange will be given priority. The Balancing Products pursuant to section 1 are all classed as MOL 4 products and are therefore not used until there are no more bids for MOL 1 and MOL 2 Balancing Products or if these are not suitable for restoring system balance.

(5) Bids may only be called for the full lot size agreed. Partial calls are not permitted.

(6) As a rule, call orders for SystemBuy quantities will be placed in such a way that not only the system balance is restored but that the total costs incurred in connection with the call order are kept to a minimum. If the bids to be called according to the MOL exceed the existing imbalance because of the size of the available lot, the MAM may instead issue call orders for a combination of bids that will at least meet the balancing requirement while resulting in the lowest total costs (total costs of call order in EUR). Exceptions are possible if, for network-related reasons, meeting the balancing requirements as accurately as possible has priority over achieving the lowest total costs. If there is a SystemSell balancing requirement, the bids that meet the maximum requirement calculated will be called with a view to optimising revenue. The MAM may exceed the SystemSell balancing gas quantities to the extent permissible for network-related reasons.

(7) The MAM may always deviate from the sequence of calls defined by the MOL if this is necessary for reasons of network safety or network stability.

(8) The exact terms and conditions governing the operational aspects of a call for a Balancing Product as well as the Provider's performance obligations in the event of such a call are governed by the provisions of the respective Balancing Product description as amended.

(9) The Provider shall not be entitled to demand that the MAM place a call order for any gas quantities.

7 Notice Obligations

If the Provider is unable to perform any of its obligations arising under or in connection with any System Balancing Transaction Agreement, or is restricted in its ability to do so, it shall notify the MAM thereof without undue delay irrespective of the causes underlying such inability or restriction. The Provider shall first notify the MAM by telephone on the 24/7 hotline of the MAM's dispatching centre and subsequently by e-mail to the MAM's dispatching centre. Such notification shall not release the Provider from its contractual obligations.

8 Charges and Invoicing

(1) For all gas quantities supplied (SystemBuy or Borrowing) and/or received (SystemSell or Parking) under a System Balancing Transaction Agreement, the fee agreed in each case (hereinafter referred to as "Call Fee") shall be paid in accordance with the rules set out below whenever a call order is issued.

(2) The Call Fee for calls made in respect of the LTO, STB and SCB Balancing Products shall be calculated by multiplying the called gas quantity in MWh by the commodity charge in EUR per MWh as agreed. The Call Fee for calls made in respect of the FLEX Balancing Product shall be calculated on the basis of the commodity charge as agreed and the agreed calculation method as described in more detail in the relevant Balancing Product description as amended.

(3) If on any gas day gas was supplied or received between the MAM and a Provider under more than one System Balancing Transaction Agreement, the MAM may aggregate all Call Fees pursuant to section 8 (1) and (2) above and show them as a single item.

(4) The invoice for Call Fees payable between the MAM and the Provider (hereinafter referred to individually as "party" or collectively as "parties") shall be made out by the MAM at the time "M+2M"for all gas days of the gas month to be invoiced and shall be submitted to the Provider by email. "M+2M" means two (2) calendar months after the end of the gas month to be invoiced. All payments to be made by either party to the other party shall be effected within ten (10) business days following invoice receipt.

(5) Where payment of a Capacity Charge has been agreed between the parties, the Capacity Charge payable in each case will be as agreed under the relevant System Balancing Transaction Agreement. The MAM shall send a separate invoice for such Capacity

Charge to the Provider no later than 15 calendar days after the end of the Contract Period agreed for any Balancing Product in respect of which payment of a Capacity Charge has been agreed. Said invoice shall be payable within thirty (30) business days following the end of the last month of the Contract Period.

(6) If the MAM finds that the Provider has not fulfilled all or part of its obligations under the relevant System Balancing Transaction Agreement, the MAM shall pay the Capacity Charge in accordance with section 8 (5) hereinabove or, in the case of the provision of gas quantities (System Buy or Borrowing), the Call Fee in accordance with section 8 (2) hereinabove only to the extent that the Provider has actually delivered on its obligations toward the MAM. For this purpose, the MAM shall reduce the Capacity Charge or the Call Fee proportionately and invoice the reduced amount.

The provisions on the contractual penalty in the respective product description shall remain unaffected by a reduction in accordance with this clause.

(7) Any contractual penalties levied by the MAM under a System Balancing Transaction Agreement, as well as the contractual penalty under section 12, shall be due ten (10) business days after receipt of the invoice in each case.

(8) Any and all applicable taxes and/or other public charges will be added to each invoice by the MAM, with all applicable taxes and/or other public charges to be determined and shown separately.

(9) All payments shall be made by the agreed due dates using a fixed value date. A payment will only be deemed to have been made in due time if the amount payable has been credited to the account of the receiving party specified by the receiving party by the stated due date.

9 Confidentiality

(1) The parties shall treat as confidential all provisions set out in each System Balancing Transaction Agreement as well as all information and data in whatsoever form they obtain in connection with the performance of such System Balancing Transaction Agreement (hereinafter referred to as “Confidential Information”), and must not disclose such Confidential Information or make it available to any third party without the prior written consent of the party affected. Each party hereby undertakes to use any Confidential Information solely for the purpose of performing the aforementioned

contracts.

(2) Each party shall be entitled to disclose any Confidential Information it has obtained from the other party without the written consent of the other party:

(a) to an affiliated entity within the meaning of section 15 of the German Joint Stock Corporation Act (*Aktiengesetz*), provided that such entity is subject to an equivalent confidentiality requirement,

(b) to its employees, boards, representatives, consultants, shareholders, banks and insurers 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 or are subject to a statutory professional confidentiality requirement in respect of such Confidential Information; and/or

(c) to the extent that such Confidential Information

(aa) was legitimately known to the receiving party prior to receiving such Confidential Information from the other party,

(bb) was already in the public domain or becomes publicly available other than through an act or omission of the receiving party; and/or

(cc) 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.

(3) The confidentiality requirement set out herein shall expire two (2) years after the term of the relevant System Balancing Transaction Agreement ends.

10 Data Protection

(1) As part of its commitment to quality, the MAM undertakes to handle all personal data of the users in a responsible manner and ensure compliance with the Federal Data Protection Act (*Bundesdatenschutzgesetz*) and the General Data Protection Regulation (GDPR), as amended from time to time. The MAM will collect, process and use the personal data provided by the users under these System Balancing Terms & Conditions and its appendices only to the extent required the purposes of these System Balancing Terms & Conditions and their appendices and permitted by law (Section 6 et seq. GDPR).

The MAM will only process or use the data provided by users for other purposes where the user has given its express consent or if the MAM is legally obliged to do so. Further information on data protection is contained in the MAM's data protection declaration (provided on its website).

(2) The parties undertake to observe the relevant provisions of the applicable data protection laws and to protect the data collected and stored as part of the performance of the contract against access by unauthorised third parties.

11 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 ("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.

(5) Where possible, the MAM and the Provider shall cooperate to remedy any errors or disturbances.

12 Prohibition of Misuse of Contract for Inappropriate Arbitrage Purposes

(1) The Provider shall not misuse any contract between the parties with a view to gaining any inappropriate arbitrage profits. Without limitation, misuse of a contract for the purpose of gaining inappropriate arbitrage profits will be deemed to be given

(a) where the Provider intentionally causes imbalances under any Balancing Group Contract made between the Provider and the MAM with a view to gaining arbitrage profits by simultaneously supplying (SystemBuy or Borrowing) and/or receiving (SystemSell or Parking) gas under any System Balancing Transaction Agreement the Provider has entered into with the MAM, or

(b) where the Provider has deliberately caused quality-specific imbalances under any Balancing Group Contract made between the Provider and the MAM with a view to gaining arbitrage profits by exploiting this circumstance by simultaneously supplying (SystemBuy or Borrowing) and/or receiving (SystemSell or Parking) gas under any System Balancing Transaction Agreement.

(2) If a breach of duty within the meaning of paragraph (1) has been established, the MAM will charge the Provider the difference between the Provider's commodity charge pursuant to section 8 (2) above and the imbalance price defined in sentence 2 multiplied by the gas quantity called off by the MAM as a contractual penalty. For gas quantities supplied by the Provider (SystemBuy or Borrowing), the positive imbalance price applicable on the day of supply pursuant to section 14 (4) (b) of the Terms and Conditions for Balancing Group Contracts, as amended shall apply, and for gas quantities received by the Provider (SystemSell or Parking), the negative imbalance price applicable on the day of receipt pursuant to section 14 (4) (a) of the Terms and Conditions for Balancing Group Contracts, as amended, shall apply. The financial settlement of the balancing group(s) concerned under the respective Balancing Group Contract(s) shall remain unaffected. The Provider shall have the right to submit suitable evidence to the MAM that the conditions set out in paragraph (1) above are not satisfied. Where such evidence is submitted and conclusive, paragraph (2) above shall not apply.

(3) The MAM reserves the right to assert further claims.

13 Liability

(1) The MAM shall only be liable hereunder if it fails comply with a material contractual

obligation the breach of which either places at risk the achievement of the contract's purpose and/or the fulfilment of which is a prerequisite for the proper performance of the contract, and on whose fulfilment the Bidder regularly relies and may rely (hereinafter referred to as "Cardinal Obligation"). Moreover, liability hereunder shall be limited to

(a) damage caused by intent or gross negligence,
(b) personal injury (injury to life, body, health) and
(c) as well as the assumption of guarantees.

(2) The MAM shall not be liable if the circumstances giving rise to a claim against the MAM

(a) are based on an unusual and unforeseeable event over which the MAM has no control and the consequences of which could not have been avoided despite the exercise of due care, or

(b) were brought about by the MAM complying with a legal obligation.

(3) The MAM shall not be liable for any failures of or disruptions in the technical infrastructure outside the MAM's sphere of responsibility (Force Majeure).

(4) The foregoing shall be without prejudice to the MAM's liability under mandatory statutory provisions (including without limitation the Product Liability Act).

14 Termination

(1) A System Balancing Transaction Agreement may be terminated for good cause only, in which case the relevant System Balancing Transaction Agreement will be terminated with immediate effect. Without prejudice to section 314 of the German Civil Code (*BGB*) and without limitation, good cause shall in particular be given where

(a) either party has repeatedly breached any material contractual obligation hereunder or under any System Balancing Transaction Agreement, i.e. any contractual obligation, the breach of which places at risk the achievement of the contract's purpose, despite having been issued with a warning notice,

(b) the Provider does not or no longer meet the requirements and prerequisites set out in the Prequalification Rules,

(c) the Provider has failed to make payment on any due payment obligation despite having been issued with a payment reminder by the MAM on occurrence of the default,

(d) the Provider has failed to provide any security due hereunder,

(e) insolvency proceedings have been initiated against the Provider's assets and the responsible administrator fails to declare a continuation of business activities as defined in section 103 of the German Insolvency Code (*Insolvenzordnung, InsO*), despite having been called on to do so,

(f) an application has been made to have insolvency proceedings initiated against the Provider's assets and initiation has been refused for a lack of assets.

(2) Notice of termination must be given in writing and signed by the terminating party.

15 Amendment of these System Balancing Terms & Conditions and their Appendices

(1) The MAM reserves the right to amend these System Balancing Terms & Conditions and their Appendices at any time on the basis of appropriate, non-discriminatory and transparent considerations. The Provider will be notified of any amendments to these System Balancing Terms & Conditions and/or their appendices in text form (hereinafter "Amendment Notice") which shall enter into force six (6) weeks after receipt of the Amendment Notice by the Provider, unless a later date is expressly specified.

(2) The Provider may terminate any System Balancing Transaction Agreement affected by the amendment to these System Balancing Terms & Conditions or their appendices by way of a special right of termination to be exercised in writing within a period of six (6) weeks after receipt of the Amendment Notice with effect from the date on which the amendment to these System Balancing Terms & Conditions and/or their appendices takes effect. If the Provider does not exercise said special right of termination, the Provider shall be deemed to have given its consent to the amendment to these System Balancing Terms & Conditions and/or their appendices. In the Amendment Notice, the MAM will advise the Provider of the special right of termination and point out that the amendment to these System Balancing Terms & Conditions and/or their appendices will take effect if the Provider does not exercise its special right of termination within the period provided.

16 Assignment

(1) Neither party shall transfer any rights and/or obligations hereunder, whether in whole or in part, to any third party unless the other party hereto has given its prior consent to such transfer. Consent may only be withheld for good cause.

(2) Any transfer to an affiliated entity as defined in 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.

(3) No right or obligation under any System Balancing Transaction Agreement may be transferred to any entity that has not successfully completed the prequalification process as required under the Prequalification Rules.

17 Severability

(1) If any provision set out in these System Balancing Terms & Conditions or in any System Balancing Transaction Agreement is, becomes or is held to be invalid, unenforceable or incomplete, it shall not serve to invalidate or affect the completeness of the remaining provisions set out in the relevant System Balancing Transaction Agreement, which shall remain in full force and effect as if such provision had not originally been contained therein and shall be deemed to be otherwise complete.

(2) The MAM and the Provider hereby undertake to replace any such invalid, unenforceable or incomplete provision by a valid, enforceable and complete provision having as far as reasonably possible the commercial and legal effect intended under the relevant System Balancing Transaction Agreement affected and reflecting as closely as reasonably possible the intentions of the MAM and the Provider.

18 Changes in Circumstances

(1) Where during the term of any System Balancing Transaction Agreement unforeseen circumstances should arise in respect of which no provision has been made in the relevant contract, or which the MAM and the Provider failed to take into account when entering into that 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.

19 Requirement for Written Form and Authoritative Version

(1) The MAM and the Provider have not entered into any oral agreements. Except where any further restrictions as to form are imposed by statute and except as otherwise provided herein, any and all amendments or additions to, as well as the termination or revocation of, a System Balancing Transaction Agreement shall be invalid unless made in writing and signed by the MAM and the Provider. The foregoing shall also apply to the written form requirement.

(2) Only the German language version of these System Balancing Terms & Conditions and their appendices shall be legally binding.

20 Jurisdiction and Governing Law

(1) The MAM and the Provider hereby agree that the Düsseldorf courts are to have exclusive jurisdiction in any type of proceeding to settle any dispute arising out of or in connection with any System Balancing Transaction Agreement or the performance or validity thereof.

(2) These System Balancing Terms & Conditions shall be governed by, and construed and interpreted in accordance with, the law of the Federal Republic of Germany to the exclusion of the UN Convention on the International Sale of Goods (CISG).

21 Documents Forming Part of the Contract

The following appendices shall constitute an integral part of the Terms and Conditions for External System Balancing Actions:

Appendix 1: “Long Term Options” Product Description

Appendix 2: “Short Term Balancing Services” Product Description

Appendix 3: “Short Call Balancing Services” Product Description

Appendix 4: “Flexibility Services” Product Description