

Tendering Process for the Provision of Market-Making Services

Agreement

by and between

Trading Hub Europe GmbH, Kaiserswerther Straße 115, 40880 Ratingen,
Germany

- hereinafter referred to as “THE GmbH” -

and

(Company name)

- hereinafter referred to as the “Market Maker” -

(THE GmbH and the Market Maker also referred to individually as a “Party” or
collectively as the “Parties”)

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1 Background and Context

Trading Hub Europe GmbH (THE) operates an attractive and liquid trading point for gas of both high-calorific and low-calorific quality (below referred to as “high CV gas” and “low CV gas”, respectively).

Spot market liquidity at the virtual trading points (VTP) of the former market areas GASPOOL and NetConnect Germany (THE VTP since 1 October 2021) increased steadily over the past years. The aim of THE GmbH is to achieve a positive development of liquidity in the futures and forward market segments at the VTP of the new THE market area established on 1 October 2021, in addition to spot market liquidity.

In order to further enable a positive development in the futures and forward market segments at the THE VTP THE GmbH is looking to promote futures and forward market liquidity by means of financial incentives to provide traders with better options for hedging their trading activities at the THE VTP. THE GmbH has therefore chosen to tender out market-making services using a volume-based model. Accordingly, under the market-making rules set out in this Agreement, the Market Maker undertakes to execute a specified number of buy and/or sell transactions with a view to increasing the volumes traded in the THE futures and forwards markets.

THE GmbH is running the present tendering process to give market participants an opportunity to submit a bid to facilitate achievement of this goal. Bidders participating in this tendering exercise are asked to submit their bid specifying a binding number of bid and/or ask transactions to be executed in the futures and/or forwards market at the THE VTP (each a “Transaction”). Each such Transaction must be for delivery at the THE VTP and may be carried out in particular via an exchange (ICE Endex and/or EEX) or a broker.

2 Tender Specifications

2.1 Contract Period

The Market Maker shall carry out the agreed Transactions in the period between 1 July 2022, 06:00 hours and 1 January 2023, 06:00 hours (“Contract Period”).

2.2 Market-Making Requirements

1. The Market Maker must have been admitted as a balancing group manager in the THE market area and must have in place a valid balancing group contract (for either high CV and/or low CV gas).
2. The Market Maker has an obligation to ensure that it will be able to carry out the agreed number of Transactions for delivery at THE VTP in particular via the exchange or a broker during the Contract Period.
3. The Market Maker must carry out its Transactions either by placing and executing orders directly on the THE VTP or by accepting existing orders previously placed directly THE VTP by a third party.
4. Moving gas between two trading hubs by trading location spreads is not permitted.
5. Trading the same quantity of gas several times in fulfilment of any illicit agreement or understanding entered with any other market participant is not permitted, either.
6. The size of each Transaction must not be less than 10 MWh/h.
7. All Transactions must be entered into during the Contract Period.

2.3 Permitted Transaction Types

Each Transaction carried out under this Agreement must be for either of the following two contract types:

- Month+2
- Quarter+2

2.4 Burden of Proof

1. The Market Maker shall document each Transaction executed by the Market Maker and provide this documentation to THE GmbH by the following dates:
 - no later than 20 October 2022 for the period from 1 July 2022, 06:00 hours to 1 October 2022, 06:00 hours,
 - no later than 20 January 2023 for the period from 1 October 2022, 06:00 hours to 1 January 2023, 06:00 hours.
2. For the purpose of documenting its Transactions, the Market Maker shall use the Excel template made available on the website¹ of THE GmbH. In addition, the Market Maker shall provide proof to THE GmbH by submitting conclusive documentation evidencing each single Transaction (e.g. transaction confirmation of the exchange or broker in electronic format, such as PDF), with this documentation to be provided on the Market Maker's own initiative without a request from THE GmbH.

¹ www.tradinghub.eu

3. THE GmbH is further entitled to request and receive access to any and all (trading) data relating to the market-making services rendered by the Market Maker under this Agreement that THE GmbH may need to verify the Market Maker's compliance with its obligations hereunder. In particular, without limitation, the Market Maker hereby accepts that THE GmbH may ask especially the relevant brokers or exchanges to verify the data provided by the Market Maker. Where required, the Market Maker will give its written consent for THE GmbH to do so.
4. THE GmbH is entitled to request a certified Transaction overview drawn up by a public accountant from the Market Maker if and where it has grounds for believing that the Market Maker's calculations are incorrect. If the public accountant confirms the Market Maker's calculations, the costs incurred in commissioning the public accountant shall be borne by THE GmbH; in all other cases, the costs shall be borne by the Market Maker.

3 Tendering Process

3.1 Bidding Period

Tendering will take place between 30 May 2022, 12 noon and 13 June 2022, 12 noon ("Bidding Period"). Bids received outside the Bidding Period will not be considered.

3.2 Submission of Bid

Market Makers wishing to submit a bid must do so by email by sending a PDF scan of a completed and signed copy of this Agreement, including its Annex, to market-development@tradinghub.eu during the Bidding Period pursuant to section 3.1, with bidders to submit no more than one bid each.

4 Acceptance of Bid

1. THE GmbH will accept up to five bids from five different bidders. The bidders have no claim against THE to have their bids accepted. For each contract duly fulfilled, THE GmbH will pay a bid price of EUR 50,000.
2. All bids received will be ranked in order of the number of Transactions offered. Bids may be submitted for Month+2 Transactions and/or Quarter+2 Transactions, with each Month+2 Transaction counting as a single Transaction and each Quarter+2 Transaction counting as three Transactions, given the longer delivery period involved. Each bid must specify the total number of Transactions the relevant bidder is offering to carry out.

3. In the event that two or more bidders submit bids specifying the same number of Transactions, THE GmbH reserves the right to enter into a contract only with the bidder whose bid was received first during the Bidding Period.
4. THE GmbH reserves the right to accept fewer than five bids, for example – without limitation – where only a small number of Transactions is offered, for in these cases liquidity improvements are unlikely. Bidders shall have no legal claim against THE GmbH to require THE GmbH to accept any bid.
5. THE GmbH will accept bids by 20 June 2022, 12 noon, in each case by countersigning the signed agreement submitted by the relevant bidder and sending a PDF scan of the countersigned agreement to the bidder by email.

5 Miscellaneous Contractual Provisions

5.1 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 statutory 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 statutory 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 Agreement, a material contractual obligation means any obligation the performance of which is absolutely essential to the proper execution of this Agreement and compliance with which the Parties generally do and may reasonably rely on.
 - b) For the purposes of this Agreement, a foreseeable loss or damage 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.
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 statutory legal representative or vicarious agent

acting on its behalf, as the case may be, acted neither wilfully nor with gross negligence.

4. The liability of the Parties for any such financial loss or damage to property caused due to gross negligence on the part of the breaching Party, or on the part of the statutory 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.

5.2 Penalty

1. If at any time during the Contract Period the Market Maker fails to comply with any of its obligations, in particular, without limitation, its obligations under section 2 above, whether in whole or in part, the Market Maker shall pay a penalty to THE GmbH.
2. The penalty shall be EUR 5,000 (10% of the bid price) per bid accepted pursuant to section 4.
3. THE GmbH retains the right to claim further damages. Any penalty payable pursuant to this section will be offset against any such damages payable. The penalty provisions set out in this section shall not apply if and where the Market Maker proves to THE GmbH that the Market Maker cannot be held responsible for the breach in question.

5.3 Market Maker's Unreliability and Consequences of Unreliability

1. If over the period of four consecutive Contract Periods the Market Maker has breached its obligations under this Agreement, in particular, without limitation, its obligations under section 2 above, two or more times – whether in whole or in part –, it can be assumed that the Market Maker is unreliable. The Market Maker will generally be deemed unreliable if there are specific grounds for believing that the Market Maker will fail to duly meet its statutory obligations or its obligations under this Agreement. Specifically, without limitation, such grounds will be deemed to be given where THE GmbH has imposed two or more penalty payments on the Market Maker for breach of the Market Maker's obligations under section 2 of this Agreement over the period of four consecutive Contract Periods.
2. If the conditions set out in paragraph 1 are met, THE GmbH shall have the right to disqualify the Market Maker from the next two tendering rounds taking place under the terms of this Agreement. In this case THE GmbH will notify the Market Maker of its decision in a written form in accordance with section 126b of the German Civil Code. After issuing such notice THE GmbH will not accept any bids submitted by the Market Maker in the relevant periods. Once the relevant two tendering rounds have passed, the Market Maker shall again have the right to participate in tenders of THE

GmbH for market-making services without this requiring any separate notice to this effect on the part of THE GmbH.

5.4 Confidentiality

1. 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 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; or
 - 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. THE GmbH has the right to provide Confidential Information to the German national regulatory authority, the Federal Network Agency (*Bundesnetzagentur*), and/or any other higher-level public authority.
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.

5.5 Notice Obligations

In the event that the Market Maker is unable to perform any of its obligations under or in connection with this Agreement, or where the Market Maker cannot do so fully, regardless of the grounds underlying such (partial) inability, the Market Maker shall notify THE GmbH thereof without undue delay.

5.6 Termination

1. This Agreement may be terminated for due cause only, in which case it will be terminated with immediate effect. Without prejudice to section 314 of the German Civil Code (*BGB*) and without limitation, due cause shall in particular be given where
 - a) a Party has repeatedly breached a material contractual obligation under this Agreement, i.e. any contractual obligation breach of which places at risk the achievement of the contract's purpose, despite having been issued with a warning notice.
 - b) the Market Maker has failed to make payment on any due payment obligation despite having been issued with a payment reminder by THE GmbH on occurrence of the default.
 - c) insolvency proceedings have been initiated against the Market Maker's assets and the responsible administrator fails to declare a continuation of business activities as defined in section 103 of the German Insolvency Code (*InsO*) despite having been called on to do so.
 - d) an application has been made to have insolvency proceedings initiated against the Market Maker'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.

5.7 Assignment and Subcontracting

Neither Party shall transfer any rights and/or obligations under this Agreement, whether in whole or in part, to any third party unless the other Party hereto has given its prior consent to such transfer. The Market Maker shall not have the right to subcontract the services to be rendered under this Agreement to any third party.

Any transfer pursuant to paragraph (1) above 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.

5.8 Payment

THE GmbH shall pay the bid price of EUR 50,000 to the Market Maker on a pro-rata basis, based on the number of Transactions executed by the Market Maker as set out in the documentation to be provided pursuant to section 2.4 above. THE GmbH shall issue the corresponding invoice (self-billing) 30 calendar days after receiving the relevant documentation from the Market Maker, with payment in each case to be made within 10 calendar days.

5.9 Severability

1. If any provision set out in this Agreement or any Annex hereto is, becomes or is held to be invalid or unenforceable, it shall not serve to invalidate the remaining provisions set out in this Agreement or its Annexes, which shall remain in full force and effect as if such provision had not originally been contained therein.
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 choose an appropriate procedure to do so. This shall apply accordingly if a provision is found to be incomplete.

5.10 Variations

The Parties have not entered into any oral agreements on the subject hereof. Except where a mandatory law prescribes adherence to a stricter form, any and all variations of this Agreement must be made in writing and duly signed by the Parties. This shall also apply with respect to the written form requirement set out in this provision.

5.11 Jurisdiction and Governing Law

1. Any disputes arising under or in connection with this Agreement shall be subject to the jurisdiction of the ordinary German courts.
2. Any such dispute shall be settled by the courts having jurisdiction over the place of the registered office of THE GmbH.
3. This Agreement shall be governed by German law to the exclusion of any interstate conflict of laws provisions except where bindingly applicable. The UN Convention on the International Sale of Goods (CISG) shall not apply.

5.12 Language

This Agreement is published in the German language and legally binding. Where an English language version of this Agreement is published alongside the original German version, the translation shall be considered a convenience translation only; in the event of any conflict in meaning between the two versions, the German language version shall prevail.

Ratingen

Date, place

Date, place

Full company name (Market Maker)

Trading Hub Europe GmbH

Full company name (THE GmbH)

Signature (for and on behalf of Market Maker)

Signature (for and on behalf of THE GmbH)

Annex: Submission of Bid

Company name	
Contact (Name, Telephone, Email, Fax)	
Address	
Postcode, place	
Country	
Balancing group contract number <i>(must be a valid balancing group registered in the THE market area)</i>	
Number of Transactions offered under this bid	