

General Terms and Conditions Hynetwork Services B.V.

Confidential and non-binding draft, for discussion purposes in consultation only. Subject to internal and external approvals.

Subject to further review by HNS. Draft dated 26 April 2022.



GENERAL TERMS AND CONDITIONS

CONCERNING THE TRANSPORTATION OF HYDROGEN

HYNETWORK SERVICES B.V. ("HNS")

Date version [•]

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1. Definitions	<i>Included</i>
2. Quality and pressure specifications	<i>To be determined</i>
3. Operating Manual	<i>To be determined</i>
4. Credit Control Protocol	<i>Included</i>
5. Allocation Rules	<i>To be determined</i>
6. Pipeline Flexibility Service	<i>To be determined</i>

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1. Definitions and interpretation

1.1 Definitions

1.1.1 Capitalised terms used in these General Terms and Conditions are defined in Annex 1 (*Definitions*).

1.2 Interpretation

1.2.1 In these General Terms and Conditions, unless a contrary indication appears:

- a. any reference to the "Agreement", the "Contract Data Sheet", these "General Terms and Conditions", any "Annex" or any other document also refers to any amendment to it and any restatement of it;
- b. any reference to a "Party" also refers to its successors in title (*rechtsopvolgers onder algemene titel*), permitted assigns and permitted transferees;
- c. an "electronic signature" includes an electronic signature, an advanced electronic signature and a qualified electronic signature within the meaning of article 3 of the eIDAS Regulation and article 3:15a of the Dutch Civil Code;
- d. an "encumbrance" includes any security right or other limited right (*beperkt recht*), title retention arrangement, right of retention, attachment (*beslag*) or other encumbrance (and "encumber" is to be construed accordingly);
- e. a "person" includes any natural person, legal entity or other person (whether under public or private law, whether or not having legal personality and wherever existing or registered);
- f. "the Netherlands" means the European part of the Kingdom of the Netherlands (and all derivative terms, including "Dutch", are to be construed accordingly);
- g. references to time are to Local European Time (LET), based on a 24-hour clock;
- h. In these General Terms and Conditions, unless a contrary indication appears:
 - i. "as of" includes the day or moment referred to by it;
 - ii. "including" means including without limitation (and all derivative terms are to be construed accordingly).

1.2.2 Headings do not affect the interpretation of these General Terms and Conditions.

1.2.3 Presented values are shown in the English format (i.e. decimals are shown as a dot ".").

1.2.4 Units of pressure (Pascal), energy (Joule, kWh), thermodynamic temperature (Kelvin) and length (metre) respectively, have the meanings ascribed thereto in the publication International Standard ISO 80000-1:2013 "Quantities and units - Part 1: General (ISO 80000-1:2009 + Cor 1:2011)", "SI units and recommendations for the use of their multiples and certain other units". The prefix "G" is equal to one billion (1,000,000,000), "M" is equal to one million (1,000,000) and the prefix "k" is equal to one thousand (1,000).

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A "bar" is equal to one hundred thousand (100,000) Pa. A "°C" means degree Celsius, and $x\text{ °C} = x + 273.15\text{ K}$.

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2. Registered Customer and Shipper

2.1 Registered Customer

2.1.1 Any party may request HNS to accept such party as a Registered Customer. A Registered Customer is any party that:

- a. has accepted these General Terms and Conditions in writing (by signing the Application Form); and
- b. has received one or more Shipper Codes after having passed a communication test as described in the Operating Manual; and
- c. shall prove to the satisfaction of HNS to be sufficiently creditworthy or shall provide and maintain satisfying security, all according to the principles stated in Article 16.6 and the Credit Control Protocol; and
- d. complies to the satisfaction of HNS with any applicable 'know your customer' requirements of HNS; and
- e. shall prove to the satisfaction of HNS to possess and maintain the expertise, prudence and the technical, administrative and organizational capacity required to participate as a shipper on the HNS Transport System and that it acts in accordance therewith; and
- f. will otherwise in every respect perform as a Reasonable and Prudent party with due regard to the integrity of the HNS Transport System and the interests of other shippers.

2.1.2 HNS may waive in writing the applicability of one or more of the elements, in whole or in part, of Article 2.1.1(a) and (b) for a specified period of time. HNS may accept a third party authorised by Registered Customer that has passed the communication test as described in the Operating Manual to perform on behalf of Registered Customer all operational communications. For the avoidance of doubt, the Registered Customer shall at all times remain fully responsible and liable for complying properly with the terms of an Agreement.

2.1.3 HNS is entitled to terminate or suspend a party's status as a Registered Customer with immediate effect by giving notice of termination or suspension by registered letter to Registered Customer, without any liability towards Registered Customer, if one or more of the following situations occurs:

- a. a Winding-Up occurs in respect of a Registered Customer; or
- b. Registered Customer no longer meets one or more of the conditions stated in Article 2.1.1; or
- c. Registered Customer fails to fulfil any other material obligation under these General Terms and Conditions.

2.1.4 A Registered Customer that is not a Shipper and has satisfied any and all outstanding obligations under or in connection with these General Terms and Conditions is entitled to terminate its status as a Registered Customer by giving notice of termination one (1) Month in advance by registered letter to HNS. A Registered Customer that has terminated its status as a Registered Customer in accordance with this Article 2.1.4 is no longer bound by these General Terms and Conditions as of the date of such termination. A Registered Customer that is a Shipper cannot terminate its status as a Registered Customer.

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2.2 Shipper

2.2.1 Only a Registered Customer can submit to HNS a request for contracting Services.

2.2.2 Only a Shipper can make use of Services.

2.2.3 A Registered Customer can become a Shipper by entering into one or more Contract Data Sheets. Each Contract Data Sheet creates a separate Agreement between HNS and Shipper.

2.2.4 A Shipper is required to at all times retain the status of Registered Customer and to comply with any and all obligations of a Registered Customer.

3. Reasonable and prudent, non-discrimination and third party access

3.1 Reasonable and prudent, non-discrimination and third party access

- 3.1.1 Each Party shall act as a Reasonable and Prudent party.
- 3.1.2 Parties shall act in accordance with all relevant legislation and regulation applicable from time to time. In this context, Parties shall respect each other's respective role.
- 3.1.3 Registered Customer acknowledges and agrees that the HNS Transport System is still being developed and that expansions and extensions of the HNS Transport System and the addition of new and potential users of this system are likely to occur. Registered Customer agrees to cooperate with the reasonable requests of HNS in connection with such developments, expansions, extensions and addition of new and potential users of the HNS Transport System.
- 3.1.4 HNS shall provide access to and usage of the HNS Transport System on transparent and reasonable terms and on a non-discriminatory basis. HNS shall accommodate the Services in a transparent, reasonable and non-discriminatory manner.
- 3.1.5 A Registered Customer shall be able to contract Capacity at various moments in time, regarding various durations, locations and various Capacities. The conditions regarding access to and use of the HNS Transport System may vary, depending on the various categories of shippers and services, provided that the distinction is justified by the difference between costs or risks regarding the HNS Transport System.
- 3.1.6 HNS shall not give exclusive access to and usage of the HNS Transport System to one or very few parties. HNS shall not reserve Capacity for (potential) shippers other than by entering into an Agreement.
- 3.1.7 HNS undertakes with Shipper that HNS shall use its best efforts to maintain throughout each Service Period in full force and effect all such agreements, licenses, permissions, consents and authorisations as are necessary so as to enable it to observe and perform its obligations under each Agreement.

4. Services

4.1 Contracted Capacity

- 4.1.1 A Registered Customer can contract Capacity under these General Terms and Conditions by entering into an Agreement with HNS by executing a Contract Data Sheet with HNS. In respect of such Agreement Registered Customer becomes a Shipper.
- 4.1.2 Each Contract Data Sheet stipulates, *inter alia*, the Contracted Capacity, consisting of Entry Capacity and/or Exit Capacity, the applicable Service Period and applicable Annual Fee.
- 4.1.3 During the Service Period HNS shall make available the Contracted Capacity to Shipper on a take-or-pay basis in accordance with and subject to the provisions of the relevant Agreement and Shipper shall use and pay for (or pay for if not used) such Contracted Capacity in accordance with and subject to the provisions of the relevant Agreement.

4.2 Use of (one or more) Contracted Capacity/ies

- 4.2.1 Shipper is responsible for making available Entry Gas at each Entry Point and shall be responsible for taking Exit Gas at each Exit Point.
- 4.2.2 HNS shall take quantities of Entry Gas made available by Shipper at each Entry Point subject to the applicable Entry Point MHFR and shall make available to Shipper at each Exit Point quantities of Exit Gas subject to the applicable Exit Point MHFR.
- 4.2.3 Shipper is at all times responsible not to exceed any Entry Point MHFR and any Exit Point MHFR in any Hour (as measured at the applicable Entry Point or Exit Point).
- 4.2.4 If Shipper has exceeded any Entry Point MHFR or Exit Point MHFR, relative to the Near Real Time Data, in any Hour with more than [●]%¹, Shipper must pay an additional fee for the Month in which the capacity exceeding took place in respect of the relevant Entry Point or Exit Point. The amount of this additional fee per Entry Point or Exit Point is:
 - a. In case of an Entry Point: $((\text{Near Real Time Data} / \text{Entry Point MHFR}) - 1) \times (1 \times \text{Total Annual Fees} / 12)$.
 - b. In case of an Exit Point: $((\text{Near Real Time Data} / \text{Exit Point MHFR}) - 1) \times (1 \times \text{Total Annual Fees} / 12)$.

If Shipper has exceeded Entry Point MHFR or Exit Point MHFR in more than one Hour in a Day, the highest exceeding percentage will be used for the calculation of the additional fee for the relevant Entry Point or Exit Point.

¹ **Note to Shippers:** this will be 1% (covering steering inaccuracy) plus [●]% (covering measurement uncertainty as will be further determined by HNS).

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- 4.2.5 After been charged for five (5) capacity exceedings in a Year in respect of a specific Entry Point or Exit Point, the next capacity exceeding on such Entry Point or Exit Point will, instead of the additional fee set out in Article 4.2.4, result in the following additional fee being payable by Shipper for the Month in which the capacity exceeding took place:
- a. In case of an Entry Point: $((\text{highest capacity exceeding based on Near Real Time Data} / \text{Entry Point MHFR}) - 1) \times (1 \times \text{Total Annual Fees})$.
 - b. In case of an Exit Point: $((\text{highest capacity exceeding based on Near Real Time Data} / \text{Exit Point MHFR}) - 1) \times (1 \times \text{Total Annual Fees})$.

Article 4.2.4 *et seq.* will apply again to any subsequent capacity exceedings on such Entry Point or Exit Point.

- 4.2.6 If Article 4.2.5 applies, HNS has the unilateral right to also adjust the Entry Point MHFR or Exit Point MHFR upwards for the remaining Service Period² to the level of the highest capacity exceeding in the current Year. The applicable Annual Fee(s) shall be adjusted accordingly. Shipper irrevocably agrees to these adjustments in advance. In case of more than one Contract Data Sheet, HNS shall determine in its sole discretion which Contract Data Sheet(s) shall be adjusted for purposes of this Article 4.2.6.
- 4.2.7 If the exceeding is a result of an instruction from HNS, no fee will be charged for this exceeding and this exceeding will not be considered for the purpose of Article 4.2.4 and Article 4.2.5.
- 4.2.8 The invoicing will take place within six (6) Months from the date the capacity exceeding for an Entry Point or Exit Point is observed.
- 4.2.9 During the first three (3) Months after the initial start of making available Entry Gas or Exit Gas at each Entry Point or Exit Point, the reference to $[[\bullet]]([\bullet]\%)$ in Article 4.2.4 shall be replaced by $[[\bullet]]([\bullet]\%)$, and any capacity exceedings during this three (3) Months period shall result in an additional fee pursuant to Article 4.2.4 but shall not count towards the capacity exceedings mentioned in Article 4.2.5. If in the opinion of HNS Shipper and/or such Connected Party abuses the exception in this Article 4.2.9, HNS may determine in its sole discretion that such exception no longer applies to Shipper and/or such Connected Party (regardless whether the abuse was committed by solely Shipper or such Connected Party).

4.3 Interruptible Capacity

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4.4 Pipeline Flexibility

- 4.4.1 A Shipper can contract a Pipeline Flexibility Amount in respect of Contracted Capacity. In this case the relevant Contract Data Sheet will stipulate, inter alia, the minimum and maximum available Pipeline Flexibility Amount and the applicable fee. The maximum available Pipeline Flexibility Amount to Shipper is subject to change and will be determined

² **Note to Shippers:** under review how to adjust Service Period(s) in case of multiple Contract Data Sheets.

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by HNS but will not fall below the agreed minimum. Any changes will be notified by HNS to Shipper in writing.

- 4.4.2 Subject to Article 4.4.3, if a Pipeline Flexibility Amount has been contracted by Shipper, during the Service Period HNS shall make available the Pipeline Flexibility Amount to Shipper in accordance with and subject to the provisions of the relevant Agreement and Shipper shall use and pay for (or pay for if not used) such Pipeline Flexibility Amount in accordance with and subject to the provisions of the relevant Agreement.
- 4.4.3 The Pipeline Flexibility Amount is made available as a temporary service by HNS on a fully discretionary basis. HNS reserves the right to amend, suspend or terminate this service at any point in time. Shipper shall not be entitled to any reduction in fees, compensation, remedy or other entitlement for any such amendment, suspension or termination. **[Note to Shippers:** *The Pipeline Flexibility Amount is a temporary service, intended to meet market needs during the period in which storage or other flexibility solutions are not yet available by market parties. The total availability of Pipeline Flexibility Amount will differ significantly per region since availability depends on among others pipeline characteristics and customer profiles. Therefore, HNS shall determine per region the total Pipeline Flexibility Amount available to Shippers in that region. The available Pipeline Flexibility Amount will be limited to a, in the opinion of HNS, reasonable amount. For the avoidance of doubt, the maximum Pipeline Flexibility Amount can be amended unilaterally by HNS, for example upon entry of new registered customers, shippers or connected parties. For the avoidance of doubt, HNS will not amend the agreed minimum Pipeline Flexibility Amount unilaterally. The use of Pipeline Flexibility Amount will in any event end once storage or other flexibility solutions become available. HNS shall decide at its sole discretion and, if possible with prior notification of one year, at what time and on what basis the Pipeline Flexibility service will end. HNS expects that the service will end sometime between 2027 and 2030.]*
- 4.5 Use of (one or more) Pipeline Flexibility Amount(s)
- 4.5.1 Each Pipeline Flexibility Amount will be made available by HNS in accordance with Annex [6] (Pipeline Flexibility Service).
- 4.5.2 **[Note to Shippers:** *financial and/or other incentives against incorrect use of Pipeline Flexibility service to be added here. HNS currently contemplates an incentive system whereby shippers incur an additional fee of a to be determined amount for each instance of incorrect use of Pipeline Flexibility service. After a certain number of such instances HNS would reserve the right to terminate the Pipeline Flexibility service with that shipper, without that shipper being entitled to any reduction in fees, compensation, remedy or other entitlement. HNS also contemplates other potential incentives against incorrect use of Pipeline Flexibility service.]*
- 4.6 Transfer of Capacity (transfer of usage rights)
- 4.6.1 Shipper may fully or partly transfer Contracted Capacity to other parties with the prior written consent of HNS. Without this consent, no transfer is effected. HNS shall on a fully discretionary basis determine the conditions under which such transfer can be accepted, such as, but not limited to operational reasons and the integrity of the HNS Transport System, provided that these conditions will be transparent, reasonable and non-discriminatory.

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- 4.6.2 Consent shall be deemed to be reasonably withheld if in the case of any proposed transfer of Contracted Capacity Shipper is unable to demonstrate to the reasonable satisfaction of HNS that the proposed transferee has the ability to perform the obligations transferred to it, and if the transferee does not qualify as Registered Customer in accordance with Article 2.1.
- 4.6.3 No transfer of Contracted Capacity pursuant to Article 4.6.1 shall be effective unless and until Shipper has ensured that the proposed transferee provides to HNS a direct covenant in favour of and in a form reasonably satisfactory to HNS that the transferee will observe and perform the obligations to be transferred to it.
- 4.6.4 Pipeline Flexibility Amount cannot be transferred in whole or in part to other parties.
- 4.7 Replacement of Entry Points and/or Exit Points
 - 4.7.1 Shipper may temporarily or permanently replace Entry Points and/or Exit Points under an Agreement by different Entry Points and/or Exit Points in respect of which a Connection Agreement exists with the prior written consent of HNS. HNS shall on a fully discretionary basis determine the conditions under which such replacement can be accepted, such as, but not limited to technical and operational reasons, limitations on frequency, and the integrity of the HNS Transport System, provided that these conditions will be transparent, reasonable and non-discriminatory.
- 4.8 Revised Services and/or other services
 - 4.8.1 HNS has the right, without any prior permission or consent of any registered customer being required, to offer revised Services and/or other services, such as, but not limited to interruptible capacity services or balancing services.

5. Measurement and allocation

5.1 Measuring station and measurement manual

5.1.1 HNS monitors the correctness and accurateness of the measurements of Entry Gas and Exit Gas and ensures that the measurements are consistent with International Standards and in accordance with the relevant regulations (if any) and as laid down in the respective metering manuals as part of the Connection Agreements between HNS and Connected Parties or NNO.

5.1.2 Any disputes or other issues regarding measurement shall be solved among HNS and the Connected Party/ies or NNO(s). Shipper shall respect the outcome of any dispute between HNS and Connected Party or NNO and agrees that HNS and Connected Party or NNO shall solve matters on behalf of Shipper.

5.2 Allocation³

5.2.1 Allocation shall be performed by HNS according to the Allocation Rules as set out in Annex [5] (*Allocation Rules*).

5.2.2 The allocation may, with the consent of HNS and with observance of the Allocation Rules, be performed by an NNO, Connected Party or a third party authorised by HNS.

5.2.3 Regarding Entry Points and Exit Points where HNS is the system operator responsible for measurement and/or allocation, HNS shall retain an auditable record of all underlying data used for allocation and invoicing on an hourly basis per meter run at least as long as legally required. Parties acknowledge the confidentiality matters involved in the underlying data in a situation of commingled stream and the restrictions this imposes on Shipper's access to such underlying data.

5.2.4 Regarding Entry Points and Exit Points where HNS is not the system operator responsible for measurement and/or allocation, HNS shall retain an auditable record of data used for allocation and invoicing on an hourly basis per Entry or Exit Point at least as long as legally required. Parties acknowledge the confidentiality matters involved in the data in a situation of commingled stream and the restrictions this imposes on Shipper's access to such data.

5.2.5 HNS will provide or cause to be provided to Shipper by electronic transmission on a Monthly basis all allocated data, relevant to Shipper, used for invoicing.

5.2.6 HNS will provide or cause to be provided to Shipper by electronic transmission on a five (5) minute basis all allocated data, relevant to Shipper, used for process steering.

³ **Note to Shipper:** Allocation shall be based on metering results. There will be no nomination in the first phase of point to point connection(s). As soon as there are multiple shippers, Entry and/or Exit nominations will become applicable and additional allocation roles will apply.

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- 5.2.7 HNS shall provide or cause to be provided to Shipper reallocations for the purpose mentioned in Article 5.2.5, based on the outcome of Article 5.1.2. The amendment period will be limited to the Year the error is observed plus four (4) Months following the end of the Year the error is observed, unless another amendment period is imposed by a Competent Authority.
- 5.2.8 Any dispute regarding allocations shall be resolved by an Expert as provided for in Article 24.

6. Balancing

6.1 Principles of Hourly balancing

- 6.1.1 Shipper shall make available Entry Gas and take Exit Gas at an equal rate per Hour in accordance with the Operating Manual. If a Pipeline Flexibility Amount has been contracted, the foregoing sentence is subject to Article 4.4.
- 6.1.2 Shipper shall be responsible for liaising with Connected Parties with whom it has entered into arrangements for the delivery or offtake of Gas in order to comply with this Article 6.
- 6.1.3 Shipper shall immediately upon request of HNS restore any imbalance in accordance with the Operating Manual.
- 6.1.4 Notwithstanding Article 6.1.3, to remedy an imbalance HNS shall have at all times on the right to close the connection at the relevant Entry Point and/or Exit Point and/or suspend any Service regarding the relevant Entry and/or Exit point without any prior notice and without any liability on HNS' part. Shipper shall not be entitled to any reduction in fees, compensation, remedy or other entitlement for any such suspension.
- 6.1.5 *[Note to Shippers: financial and/or other incentives against imbalance to be added here. In the event of imbalance or any other incorrect use of the HNS Transport System by Shipper an additional fee shall apply. The rationale for the financial and/or other incentives against imbalance is to prevent damages to the HNS Transport System and to safeguard (other) shippers and Connected Parties. The costs to restore the balance, including the costs of any repairs and including a reasonable surcharge, will be charged to the party responsible for the imbalance. In the event the responsible party cannot be identified, the costs will be shared between shippers.]*

6.2 System Balance

- 6.2.1 For any Hour during a Day the difference between allocated Quantities of Entry Gas and Exit Gas will be allocated to the System Balance. The System Balance is negative if the allocated Quantity of Exit Gas is higher than the allocated Quantity of Entry Gas. The System Balance is positive if the allocated Quantity of Exit Gas is lower than the allocated Quantity of Entry Gas.
- 6.2.2 The maximum positive and negative System Balance shall be laid down in the Operating Manual.
- 6.2.3 A settlement of Quantities of Gas in the System Balance by shippers shall always be executed in accordance with the Operating Manual.

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7. Nomination

7.1 Nomination

- 7.1.1 HNS may unilaterally introduce a nomination procedure with a prior notice of at least one (1) year.⁴

⁴ **Note to Shippers:** Currently there is no need for a nomination system. The introduction of a nomination procedure is among others dependent on an operational or technical necessity when multiple parties become active. HNS estimates that a nomination procedure will most likely be introduced in the first regions in 2026 or 2027.

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8. Operation

8.1 Operation

8.1.1 Parties shall apply the Operating Manual.

9. Capacity Restrictions

9.1 Capacity Restrictions due to planned maintenance

9.1.1 For the purpose of planned maintenance of, or any other planned activities affecting the HNS Transport System, HNS shall have the right to have up to seventy-two (72) cumulative Reduced Capacity Hours under an Agreement in each Year.

9.1.2 In respect of any reduction in Available Capacity related to Article 9.1.1:

- a. HNS shall use reasonable endeavours to minimise the disruption caused to Shipper as a result of planned maintenance;
- b. HNS shall give an indication to all relevant shippers of the Available Capacity in the HNS Transport System on a Reduced Capacity Day as soon as reasonably possible and in any event at least ninety (90) Days before the start thereof; and
- c. Shipper shall (regardless of its applicable Service Period) not be entitled to any reduction in the Annual Fee, nor shall Shipper have any other entitlement(s) against HNS. After the periods described in Article 9.1.1, as Shipper's sole and exclusive remedy, the amount chargeable with respect to the Annual Fee shall be reduced on an Hourly basis pro rata to the reduction in Available Capacity.

9.2 Capacity Restrictions due to expansions and other major system updates

9.2.1 For the purpose of expansion of the HNS Transport System, or any other activities affecting the HNS Transport System that cannot be completed in the seventy-two (72) Hours referred to under Article 9.1.1 above:

- a. up to and including [2029], HNS shall have the right to have up to two periods of seven (7) consecutive Reduced Capacity Days under an Agreement every Year; and
- b. from [2030], HNS shall have the right to have up to two periods of seven (7) consecutive Reduced Capacity Days under an Agreement once every three (3) Years.

9.2.2 In respect of any reduction in Available Capacity related to Article 9.2.1:

- a. HNS shall use reasonable endeavours to minimise the disruption caused to Shipper as a result of the activities;
- b. HNS shall give an indication to all relevant shippers of the Available Capacity in the HNS Transport System on a Reduced Capacity Day at least one (1) Year before the start thereof, or if a Start Date falls after this date, on or about the relevant Start Date. In particular shippers with an Agreement with a short term Service Period should note that a reduction in Available Capacity pursuant to Article 9.2.1 could fall within their Service Period;
- c. Shipper shall (regardless of its applicable Service Period) not be entitled to any reduction in the Annual Fee, nor shall Shipper have any other entitlement(s) against HNS. After the periods described in Article 9.2.1(a) and (b), as Shipper's sole and exclusive remedy, the amount chargeable with respect to the Annual Fee shall be reduced on an Hourly basis pro rata to the reduction in Available Capacity.

9.2.3 HNS shall use reasonable endeavours to combine planned maintenance and other planned activities as set out in Article 9.1 and expansions as set out in Article 9.2. In case such

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planned maintenance and other planned activities and expansions are indeed combined, HNS shall determine whether any resulting Capacity Restrictions shall be deemed occur under Article 9.1 or Article 9.2 or a combination thereof.

9.3 Other Events Restricting Capacity

- 9.3.1 Notwithstanding the provisions of Article 9.1 and Article 9.2 above, HNS has the right to interrupt or reduce the Available Capacity under an Agreement for other reasons than as set out in Article 9.1 and Article 9.2 above, including Gas failing to conform to the quality and/or pressure specifications as described in the Annex [2] (*Quality and pressure specifications*) and other events restricting Available Capacity.
- 9.3.2 HNS shall notify Shipper as soon as reasonably possible whenever a reduction of the Available Capacity occurs pursuant to Article 9.3.1. Such information shall contain the amount of the capacity reduction, the expected duration and reasons for such reduction.
- 9.3.3 In case of reductions of the Available Capacity as specified in Article 9.3.1, Shipper shall not be entitled to any reduction in the Annual Fee during the first forty-eight (48) Hours of any reduced Available Capacity under an Agreement in a Year, nor shall Shipper have any other entitlement(s) against HNS. After forty-eight (48) Hours, as Shipper's sole and exclusive remedy, the amount chargeable with respect to the Annual Fee shall be reduced on an Hourly basis pro rata to the reduction in Available Capacity under an Agreement.

9.4 General

- 9.4.1 When reducing the Available Capacity under an Agreement and the available capacity of other shippers, the Contracted Capacity remaining for Shipper shall be calculated by HNS by multiplying the remaining contracted capacity contracted by all shippers with the ratio of the Contracted Capacity and the sum of all contracted capacity contracted by all shippers (including Shipper).
- 9.4.2 Notwithstanding the above, if HNS establishes that the cause of the interruption or reduction of Available Capacity in the HNS Transport System can be related to any particular agreement(s) between HNS and one or more shippers (including Shipper), then HNS shall – within the limits of its technical possibilities and contractual obligations – reduce or interrupt the capacity booked under such agreement(s) before reducing Available Capacity on a pro rata basis as provided for in Article 9.4.1.
- 9.4.3 Shipper shall keep Connected Parties which whom it has entered into arrangements for the delivery or offtake of Gas duly informed about any relevant actual or planned reductions in Available Capacity pursuant to this Article 9.

10. Title to Gas

10.1 Cushion Gas and HNS Linepack⁵

10.1.1 HNS must obtain and maintain the Cushion Gas.

10.1.2 HNS must obtain and, subject to Articles 4.4 and Article 4.5, maintain, the HNS Linepack.

10.2 Title

10.2.1 Subject to Article 10.4, Shipper will retain title to the Entry Gas. HNS will have no title to, or interest in, the Entry Gas.

10.2.2 Subject to Article 10.4, HNS will retain title to the Cushion Gas and HNS Linepack. Shipper will have no title to, or interest in, the Cushion Gas and HNS Linepack.

10.3 Control and possession

10.3.1 As between HNS and Shipper:

- a. Shipper is, or is deemed to be, in control and possession of the Gas prior to its supply to HNS at an Entry Point and after the delivery of the Gas by HNS to Shipper at an Exit Point; and
- b. HNS is in control and possession of the Gas following receipt of the Gas from Shipper at an Entry Point and prior to delivery of the Exit Gas to Shipper at an Exit Point.

10.3.2 HNS has control and possession of the Cushion Gas and HNS Linepack within the HNS Transport System.

10.4 Risk

10.4.1 The risk attached to Entry Gas shall pass from Shipper to HNS at an Entry Point. The risk attached to Exit Gas shall pass from HNS to Shipper at an Exit Point.

10.5 Co-mingling

10.5.1 HNS will have the right to co-mingle Entry Gas with other Gas in the HNS Transport System and is entitled to deliver different molecules to Shipper at an Exit Point.

⁵ **Note to Shippers:** please note that the HNS Linepack definition and mechanics are still under construction.

11. Warranties

11.1 Warranties

11.1.1 Each Party warrants to the other Party per the date of an Agreement that:

- a. it is validly existing and duly incorporated under its laws of incorporation;
- b. it has taken all corporate action to enter into such Agreement and to undertake the obligations arising therefrom; and
- c. it has full power and authority to enter into such Agreement and to undertake the obligations arising therefrom.

11.1.2 Shipper warrants to HNS on each day of a Service Period that it shall have good and unencumbered title to all Entry Gas which it makes available at any Entry Point, and that it shall not grant third parties any rights, including ownership, nor create any lien, encumbrance or similar right with regard to any Entry Gas, if such right will or could hamper and/or obstruct the exercise of rights and performance of obligations. In the event of any conflict between an Agreement and the rights of third parties with regard to Shipper's Gas, HNS shall not be liable for any damage and/or claims resulting there from and Shipper shall indemnify and hold HNS harmless from any damage and claims in respect thereof.

12. Liability

12.1 Liability

- 12.1.1 No Party shall be liable to the other Party under any circumstances for any loss or damage, including damage to property or persons incurred by the other Party in connection with an Agreement, except as set out in this Article 12.
- 12.1.2 Shipper shall be liable to HNS for direct damage to the HNS Transport System and the facilities of Connected Parties, including the reasonable costs of cleaning and replacement of any Gas of third parties and any Cushion Gas and HNS Linepack, to the extent such damage is caused by and is a consequence of a shortcoming in the fulfilment of any obligation under an Agreement. As soon as reasonably practicable after the damage was discovered the relevant Party shall give notice to the other Party of such damage.
- 12.1.3 To the extent a Party is not liable to the other Party for loss or damage to the other Party pursuant to this Article 12, the other Party shall hold harmless and indemnify that Party from and against all claims by third parties concerning that loss or damage.
- 12.1.4 Notwithstanding anything contained in this Article 12, neither of the Parties is liable to the other Party for any indirect damage, including, without limitation, loss of profit, loss of business expectations or opportunities, loss of contract or any loss or damage to third parties.
- 12.1.5 If a Party is liable under an Agreement, all liability to the other Party for whatever kind of damage will per Year and per Agreement be limited to [€5,000,000 (five million Euro)] or, if higher, the Annual Fee.
- 12.1.6 The limitations stipulated in Article 12.1.5 will not apply in case of Wilful Misconduct or Gross Negligence of the defaulting Party or in respect of any liability pursuant to Article 11.1.2 or Article 12.1.3.
- 12.1.7 Any relief from liability, indemnity given or received, or benefit in favour of a Party under an Agreement shall extend to the respective Affiliated Companies of the companies or corporations concerned, their respective contractors, subcontractors and suppliers and to its or their respective employees, officers, managing and supervisory directors, consultants and agents.

13. Force Majeure

13.1 Force Majeure

- 13.1.1 If a Party is unable, in whole or in part, to fulfil any obligation under an Agreement due to Force Majeure, such Party will be relieved of its obligations under such Agreement to the extent that the fulfilment of these obligations is rendered impossible by such Force Majeure. The Party claiming Force Majeure shall give notice and reasonably full particulars to the other Party promptly after the occurrence of such Force Majeure and shall also notify the other Party of the period of time which said Party estimates it will require to remedy the Force Majeure and shall keep the other Party regularly informed as to the progress of such remedy.
- 13.1.2 The Party claiming Force Majeure shall use reasonable endeavours to mitigate the effects of such Force Majeure and to rectify the circumstances causing the failure. However, there shall be no obligation of the Party claiming Force Majeure (i) to settle any labour dispute, except in such a manner as it shall deem fit in its own judgement, and (ii) to negotiate, arrange or agree alternative transportation for Gas.
- 13.1.3 Force Majeure does not relieve Shipper from timely paying amounts due and payable under the Agreement, unless the payment procedure itself is affected by Force Majeure.
- 13.1.4 Amounts that are due and payable by Shipper cannot be withheld on the grounds of HNS claiming Force Majeure to the extent that those amounts are chargeable for Services that were performed by HNS prior to the occurrence of the event qualifying as Force Majeure or for Services that are unaffected by such Force Majeure event.
- 13.1.5 If any Party claims Force Majeure, no Party shall be entitled to suspend or terminate an Agreement or to suspend or terminate any obligations under an Agreement on the grounds of such Force Majeure provided however, that if, a Force Majeure situation lasts for a period of more than three hundred and sixty-five (365) consecutive Days after the Party claiming Force Majeure giving notice thereof, the Party who did not claim Force Majeure shall be entitled to terminate the relevant Agreement, provided that the Force Majeure situation still exists at the time of the termination. Such a termination shall be made in accordance with Article 17.2.

14. Fees

14.1 Fees

14.1.1 The consideration for the Services will be passed on to Shipper in a transparent and non-discriminatory way as described in the [Operating Manual].

14.1.2 In return for HNS agreeing to make available Contracted Capacity to Shipper, Shipper shall pay to HNS the Annual Fee on a take-or-pay basis.

14.1.3 If Pipeline Flexibility Amount has been contracted, in return for HNS agreeing to make available the Pipeline Flexibility Amount, Shipper shall pay to HNS the Pipeline Flexibility Fee on a take-or-pay basis.

14.1.4 In addition to the Annual Fee, Shipper shall pay to HNS in respect of each Contracted Capacity a variable fee covering any variable fees, costs and expenses payable pursuant to an Agreement⁶, including, but not limited to, the fees that may be payable pursuant to Article 4.2.4 to Article 4.2.5 (inclusive), Article 4.4.1, Article 4.5.2 and Article 6.1.5.

14.2 Regulation and covenants

14.2.1 The Parties recognize that prior to a Start Date or during a Service Period national or international legislation or regulations, guidance or decisions from any Competent Authority and/or any conditions relating to any subsidy or government investment may become applicable regarding rates, fees and conditions in respect of the HNS Transport System and/or its users.

14.2.2 The Parties recognize that the introduction of such legislation, regulations, guidance, decisions, covenants and/or conditions stipulated in Article 14.2.1 may result in rates, fees, fees structure(s) and conditions becoming applicable that differ from those included in an Agreement. This will not entitle a Shipper to suspend or terminate an Agreement.

14.3 Other changes to the fee structure

14.3.1 HNS will be entitled to re-allocate fees over Entry Points and/or Exit Points and/or adjust the fee structure in order to maintain the economic purpose under an Agreement.

⁶ **Note to Shippers:** extent of variable fees subject to review by HNS.

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15. Taxes

15.1 Taxes

- 15.1.1 All amounts included in an Agreement are exclusive of any Tax, unless specifically stated otherwise. HNS is entitled to add to amounts due by Shipper to HNS all Tax lawfully imposed on HNS by any Competent Authority with respect to the Services performed by HNS under an Agreement. If and to the extent such amounts are fully or partially subject to Tax, HNS shall issue an accurate invoice to Shipper, including any amount of Tax due, and Shipper shall pay the applicable amount of Tax to HNS. For the avoidance of doubt, the Tax referred to in this Article 15 does not include the corporate income tax due by HNS or similar taxation.

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16. Invoicing, payment and creditworthiness

16.1 Invoicing and payment

16.1.1 HNS will provide Shipper with the following invoices:

[•]; and

[•].⁷

16.1.2 All invoices shall be specified, containing all information reasonably necessary to enable Shipper to check the correctness of the invoice.

16.1.3 Amounts chargeable can be provisional, for example in case of the lack of timely availability of the required metering data, and will in that case be labelled as such.

16.1.4 All calculations made with respect to tariffs shall be made to two (2) decimal places.

16.1.5 Any amount due by HNS to Shipper shall be settled with the next Monthly invoice.

16.2 Payment term

16.2.1 An invoice shall be paid by Shipper in such a manner that HNS will have the money at its free disposal at an account specified by HNS within fourteen (14) Days of the invoice date. All payments shall be made in Euro.

16.3 Bank

16.3.1 The sums to be paid by Shipper to HNS shall be remitted to a bank to be specified by HNS in writing. The sums to be paid by HNS to Shipper shall be remitted to a bank in the European Union to be specified by Shipper in writing. Any bank charges are for the account of Shipper.

16.4 Overdue payments

16.4.1 Late payments shall bear interest as of the due date of payment at the rate of EURIBOR for the Months to which the calculation of interest relates plus four percent (4%) per year and rounded to two (2) decimal figures.

16.5 Disagreement over invoice

⁷ **Note to Shippers:** HNS envisages the Annual Fee to be invoiced in instalments on a Monthly basis. The timing and frequency of other financial obligations of shippers under these General Terms and Conditions is under review by HNS but is contemplated to range from a Monthly to a Yearly basis.

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16.5.1 If Shipper disputes the correctness of an invoice, such dispute shall not affect the obligation to pay within the specified period, except in the case of an obvious clerical error. Such disputes must be raised as soon as possible, but in any event within a period of one (1) year after the invoice date, or in case of tax related claims, within a period of five (5) years after the invoice date. After the end of this period an invoice can no longer be disputed. In case of an obvious clerical error, the undisputed part of the invoice should be paid anyhow within the specified period. If all or any part of an invoice is not paid on the due date, interest shall be payable in accordance with Article 16.4.

16.6 Creditworthiness

16.6.1 Based on an analysis of the creditworthiness of a (potential) Registered Customer by HNS the risk category of a (potential) Registered Customer is determined by HNS. HNS may request a (potential) Registered Customer to provide security. All items concerning creditworthiness are covered in the Credit Control Protocol.

16.6.2 A Registered Customer shall at all times comply with the Credit Control Protocol.

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17. Duration, suspension and termination

17.1 Duration

17.1.1 The obligations of Parties under these General Terms and Conditions shall enter into force and become effective upon acceptance by potential Registered Customer in writing thereof and shall remain into force until Parties explicitly agree otherwise.

17.1.2 Unless otherwise agreed upon, an Agreement shall enter into force and become effective after the Contract Data Sheet has been signed by the Parties thereto and shall remain in force up to the End Date.

17.1.3 Any suspension or Force Majeure under an Agreement does not affect the End Date.

17.2 Suspension and termination

17.2.1 Without prejudice to Article 2 and the right to claim damages each Party shall be entitled without judicial intervention to terminate an Agreement and/or to suspend fulfilling any obligations under an Agreement if the other Party:

- a. is declared bankrupt (*in staat van faillissement verklaard*) or is granted a (provisional) suspension of payment (*surséance van betaling*) or is declared in a similar legal status affecting the rights of creditors generally; or
- b. terminates its activities or existence; or
- c. in case such other Party is Shipper, Shipper's status as a Registered Customer can be terminated or suspended; or
- d. in case such other Party is Shipper, a Change of Control occurs in respect of Shipper without the prior approval of HNS (not to be unreasonably withheld); or
- e. is subject to prolonged Force Majeure subject to and in accordance with Article 13.1.5; or
- f. in case such other Party is Registered Customer or Shipper, does not comply with Article 16.6.2; or
- g. in case such other Party is Registered Customer or Shipper, fails to fulfil its payment obligations under any Agreement; or
- h. fails to fulfil any other material obligation under any Agreement to such extent that continuation of the Agreement can reasonably no longer be required from the Party invoking the termination,

all without prejudice to that other Party's obligation to pay judicial and extra judicial costs as prescribed by law, damages within the framework of Article 12, the termination payment stipulated in Article 17.2.7 and interest pursuant to Article 16.4.

17.2.2 HNS shall be entitled without judicial intervention to immediately suspend fulfilling any obligations under an Agreement if no Connection Agreement is in full force and effect at the relevant Entry Point and/or Exit Point, if such Connection Agreement is not complied with by the relevant Connected Party or if a relevant Entry Point or Exit Point is temporarily or permanently closed in accordance with the terms of the relevant Connection Agreement.

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- 17.2.3 For the avoidance of doubt, Article 17.2.1(g) does not apply in case the payment obligation concerned is the subject of a bona fide dispute between the Parties regarding an obvious clerical error pursuant to Article 16.5.
- 17.2.4 Without prejudice to Article 13.1.4, any suspension by HNS under an Agreement pursuant to Article 17.2 does not affect the obligation of Shipper to continue to pay the Annual Fee and such other fees as may be payable pursuant to Article 14.
- 17.2.5 A Party shall be entitled to suspend fulfilling any obligations under an Agreement or to terminate an Agreement in the cases referred to under:
- a. Article 17.2.1(a)-(e), immediately;
 - b. Article 17.2.1(f), in respect of suspension, immediately regardless of any applicable grace periods provided in the Credit Control Protocol, and in respect of termination, immediately upon the lapse of any applicable grace periods provided in the Credit Control Protocol;
 - c. Article 17.2.1(g), fourteen (14) Days after that Party summoned the other Party in writing to remedy the default and that other Party has not so remedied its default, unless it is apparent that such summons will be of no avail; and
 - d. Article 17.2.1(h), after that Party has summoned the other Party in writing to remedy its default within a reasonable period and that other Party has not so remedied its default, unless it is apparent that such summons will be of no avail.
- 17.2.6 A Party shall notify the other Party by registered letter if that Party exercises its right to terminate an Agreement. All amounts which may be owed by a Party to the other Party shall be immediately due and payable from the Day of receipt of the notice. For the avoidance of doubt, Article 19 will remain in full force after termination of an Agreement.
- 17.2.7 In case HNS terminates an Agreement, Shipper is obliged to pay HNS 100% of the amounts chargeable for the cancelled Services that would have been due and payable during the Service Period. This amount shall bear interest as provided for in Article 16.4 from the Day immediately following the date of the notice of HNS by which an Agreement with Shipper is terminated, until but excluding the actual date of payment.

18. Assignments

18.1 Assignments

- 18.1.1 No Party may fully or partly transfer, assign or encumber rights and/or obligations under an Agreement without the other Party's prior written consent. Without this consent, no transfer, assignment or encumbrance is effected.
- 18.1.2 Consent shall be deemed to be reasonably withheld if in the case of any proposed transfer of contract the Party making the transfer is unable to demonstrate to the reasonable satisfaction of the other Party that the proposed transferee has the ability to perform the obligations transferred to it, and, with respect to a proposed transfer by Shipper, if the transferee does not qualify as Registered Customer in accordance with Article 2.1.
- 18.1.3 No transfer of contract pursuant to Article 18.1.1 shall be effective unless and until transferor has ensured that the proposed transferee provides to the other Party a direct covenant in favour of and in a form reasonably satisfactory to the other Party that the transferee will observe and perform the obligations to be transferred to it.
- 18.1.4 Notwithstanding Article 18.1.1, HNS may transfer its rights and obligations under an Agreement to an Affiliated Company without Shipper's prior written consent. Shipper hereby cooperates with any such transfer in anticipation (*bij voorbaat*). Any transfer shall take effect by written notice to Shipper (whether prior to or after the transfer).

19. Confidentiality

19.1 Confidentiality

19.1.1 Parties agree that the contents of an Agreement and all information obtained hereunder by each Party from the other Party, including all engineering and operational data, shall be held strictly confidential by the receiving Party during the term of the Agreement and for a period of three (3) years from the End Date or the date of early termination. Parties declare that they shall not make or have made public any information with regard to the contents of an Agreement without prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

However, a Party may make available said contents or information without such prior written consent to:

- a. its employees or employees of Affiliated Companies or shareholders or members of corporate bodies of an Affiliated Company to the extent reasonably necessary for the approval and performance of an Agreement, provided that such employees, shareholders and members shall be bound by equivalent provisions of confidentiality as set forth in this Article 19; or
- b. any Competent Authority, subsidy grantor or recognised security exchange, if such disclosure is required by law, order or regulation; in such case the disclosing Party will notify the other Party in advance of such disclosure and of its extent; or
- c. banking and financial institutions and their consultants, if such disclosure is necessary in connection with financing arrangements, provided that such Party shall first obtain a written undertaking of confidentiality from such banking and financial institutions and their consultants, similar to the undertaking of confidentiality that is set forth in this Article 19; or
- d. independent consultants, strategic partners or contractors nominated by a Party for the purpose or in connection with an Agreement, provided that such Party shall first obtain a written undertaking of confidentiality from each consultant or contractor, similar to the undertaking of confidentiality that is set forth in this Article 19; or
- e. any person or legal entity to which pursuant to Article 18 any right or obligation under an Agreement has been or will be transferred, assigned or encumbered or any legal successor of a Party, provided that the Party assigning or to be legally succeeded shall first obtain a written undertaking of confidentiality from such assignee or legal successor, similar to the undertaking of confidentiality that is set forth in this Article 19.

19.1.2 Notwithstanding the provisions in Article 19.1.1, the Party receiving information may disclose such information without the other Party's prior written consent if and to the extent that such information:

- a. is already lawfully known to the Party receiving the information; or
- b. is already in or enters the public domain other than through the act or omission of the Party receiving the information; or
- c. is acquired independently from a third party that is entitled to disseminate such information at the time it is acquired by the Party receiving the information.

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- 19.1.3 HNS is entitled to publish on its website data to provide third parties insight in the quantity of Available Capacity for booking and in aggregated form the level of the past usage of Available Capacity insofar this aggregated information can be published without jeopardising confidentiality, and does not harm the commercial position of Shipper.
- 19.1.4 Notwithstanding Article 19.1.1, both Parties are entitled to inform its relevant (prospective) users of the HNS Transport System or the hydrogen production system of the relevant parts of an Agreement or the relevant data resulting from an Agreement in case and only to the extent this is necessary for fulfilling their obligations under their respective (future) agreements for the transmission of Gas with these parties or for fulfilling its statutory tasks.
- 19.1.5 Notwithstanding Article 19.1.1, HNS may pursuant to any legal or regulatory requirement publish information if so required.

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20. Sundries

20.1 Sundries

20.1.1 All agreements between Parties prior to the date of an Agreement concerning any of the matters that are now dealt with in such Agreement, are superseded by the contents of such Agreement.

20.1.2 The Annexes form an integral part of each Agreement.

20.1.3 In case of any conflict or inconsistency between the provisions of a Contract Data Sheet and these General Terms and Conditions, the Contract Data Sheet will prevail. In case of any conflict or inconsistency between the provisions of any Annex and these General Terms and Conditions, the latter will prevail unless explicitly agreed otherwise.

20.1.4 The failure at any time of either Party to require performance by the other Party of any provision of an Agreement shall in no way affect the right of a Party to require any performance which may be due thereafter pursuant to such provision nor shall the waiver by either Party of any breach of any provision under such Agreement be taken or held to be a waiver of any subsequent breach of such provision.

20.1.5 If one or more of the provisions of an Agreement should be totally or partially void or ineffective, this shall not affect the legal status of the other provisions. Parties undertake to cooperate in agreeing as soon as possible on an effective new provision, which approaches the purpose and any other effect of the ineffective or void provision as closely as possible. Until such new provision has been agreed upon, in case legal proceedings are pending in which the ineffective provision(s) are of any significance, each Party may request the Court for the application of article 3:42 of the Dutch Civil code, if such application is legally possible.

20.1.6 Parties undertake to co-operate in good faith with any third parties in so far as involvement of those parties is directly or indirectly necessary for the fulfilment by HNS or Shipper of any obligation under an Agreement.

20.1.7 If the value of the CPI in a given year has changed from the value of the CPI for:

- a. In respect of any financial amounts stipulated in these General Terms and Conditions, [October 2022]; and
- b. In respect of any financial amounts stipulated in the Contract Data Sheet, the month of the date of the Contract Data Sheet,

then such financial amounts (as applicable) will be adjusted for indexation (but only if such adjustment would result in a higher financial amount) in accordance with the value of the CPI whereby CPI means the consumer price index published under the name "*Consumentenprijsindices (CPI) alle huishoudens, 2015 = 100*" on the website of the Dutch Centraal Bureau voor de Statistiek (CBS) (www.cbs.nl).

21. Amendments to Agreements

21.1 Amendments

21.1.1 Any and all amendments to an Agreement and these General Terms and Conditions shall not be valid unless drawn up in writing, labelled as subsequent amendment and signed by Parties or their assigns or successors.

21.2 Amendments by HNS

21.2.1 Notwithstanding Article 21.1, in respect of these General Terms and Conditions agreed between HNS and a Registered customer that is not a Shipper, HNS is entitled to unilaterally amend such General Terms and Conditions. Registered Customer that is not a Shipper irrevocably agrees to these amendments in advance.

21.2.2 Notwithstanding Article 21.1, HNS is entitled to unilaterally amend an Agreement if, in the reasonable judgement of HNS, such amendment is necessary or useful:

- a. to accommodate any national or international legislation or regulations, guidance or decisions from any Competent Authority applicable to HNS or any of its Affiliated Companies; or
- b. to accommodate any applicable conditions relating to any subsidy or government investment granted to HNS or any of its Affiliated Companies and/or, if applicable, any other users of the HNS Transport System; or
- c. to accommodate any decision in connection with a state aid notification procedure at the European Union or other decision of the European Union); or⁸
- d. to avoid, limit and/or remedy inefficiencies in the use or management of the HNS Transport System; or
- e. to secure or improve the integrity of the HNS Transport System; or
- f. to accommodate integration and expansions of the HNS Transport System; or
- g. to secure the reliability of the performance of a service; or
- h. to accommodate future and/or revised services (such as, but not limited to, balancing services and interruptible capacity services); or
- i. to cope with the consequences of abusive contracting or use of a service; or
- j. to improve or clarify the wording of these General Terms and Conditions; or
- k. in the event of unforeseen circumstances within the meaning of Section 6:258 of the Dutch Civil Code.

Such amendments will have effect, in case of Article 21.2.2(a), from the date the new legislation enters into force, in case of Article 21.2.2(b), from the date the applicable conditions become applicable, and in each other case on the date the amendment is notified by HNS to Shipper.

⁸ **Note to Shippers:** please note that the terms in paragraph (c) are only relevant during the initial phase of the development of the HNS Transport System and will therefore only be included in the CDS with the launching customers. Once the subsidy has been provided and/or the state aid procedure completed (if needed), these conditions will no longer be included.

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If possible, HNS will notify a Registered Customer at least three (3) months before the entering into force of a material change pursuant to Article 21.2.

Furthermore, HNS will only amend an Agreement in case of Article 21.2.2(f), (h), (i) and (j) after having consulted Shippers. HNS will take the outcome of this consultation into consideration, but the outcome of this consultation is for information purposes only and not binding on HNS and will not require HNS to change the proposed amendments.

Shipper irrevocably agrees to these amendments in advance.

21.2.3 An amendment of the Agreement pursuant to Article 21.2.2 may not change the Contracted Capacity and fees stipulated in the Contract Data Sheet, except for amendments in connection with Article 21.2.2(a)-(d) and Article 14.2.

21.3 No suspension or termination due to amendments

21.3.1 Any amendments to these General Terms and Conditions and an Agreement pursuant to Article 21.2 do not entitle a Shipper to suspend or terminate an Agreement.

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22. Information and communication

22.1 Notices

22.1.1 All notices shall be given in the English language.

22.1.2 Unless otherwise stipulated in an Agreement any notice to be given herein shall be in writing and shall be deemed given and effective upon receipt by the Party addressed, or, in case the receipt is disputed:

- a. if posted in the Netherlands, postage prepaid, to an address in the Netherlands on the next Business Day subsequent to posting; or
- b. if posted outside the Netherlands or to an address outside the Netherlands, via airmail and postage prepaid, on the fifth (5th) Business Day subsequent to posting; or
- c. if given by electronic mail, on the next Business Day after the dispatch thereof, or, if this is earlier, the moment at which the recipient of the electronic mail confirms the receipt of the electronic mail.

22.2 Disclosure of information

22.2.1 Parties will at all times give each other all such information deemed necessary or useful to enable Parties to carry out their obligations under an Agreement and/or to meet regulatory requirements to the extent that the disclosing Party is entitled to disclose such information to the other Party.

22.3 Addresses

22.3.1 The address and e-mail addresses (and the department of the officer, if any, for whose attention the communication is made) of each Party for any communication to be made under or in connection with an Agreement are:

- a. those identified with its name in the Contract Data Sheet; or
- b. any substitute address or department or officer as the Party may notify to the other Party by not less than five (5) Business Days' notice.

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23. Applicable law and dispute resolution

23.1 Applicable law

23.1.1 These General Terms and Conditions (including Article 23.2 below) and any Agreement entered into pursuant thereto and any non-contractual obligations arising out of or in connection therewith shall exclusively be governed by and interpreted in accordance with the laws of the Netherlands. The application of the Convention on the International Purchase of Goods and the Conclusion of International Purchase Contracts is explicitly excluded.

23.2 Dispute resolution

23.2.1 All disputes arising out of or in connection with these General and Terms and Conditions or any Agreement entered into pursuant thereto, including disputes concerning their existence, validity and any non-contractual obligation, will be resolved by the Groningen District Court.

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24. Expert procedure

24.1 Expert

24.1.1 Whenever, in these General Terms and Conditions, any person is to be appointed as an Expert or any matter is to be referred to an Expert or whenever, during the term of an Agreement, the Parties agree that a dispute between them shall be resolved by an Expert, the provisions of this Article 24 shall apply.

24.1.2 The language of the Expert procedure shall be English. Any matter to be referred to an Expert shall be resolved by applying the following procedure.

24.2 Appointment

24.2.1 The Party wishing the appointment to be made, shall give notice in writing to that effect to the other Party and with such notice shall give details of the matter which is proposed to be resolved by the Expert.

24.2.2 Parties shall meet in an endeavour to agree upon a single Expert to whom the matter in dispute shall be referred for determination.

24.2.3 If within twenty-one (21) Days from the service of the said notice Parties have either failed to meet or failed to agree upon an Expert, then the matter may forthwith be referred by the Party wishing the appointment to be made to the Netherlands Arbitration Institute (*Nederlands Arbitrage Instituut*) which shall be requested to make the appointment of the said Expert within thirty (30) Days and in so doing may take such independent advice as it thinks fit.

24.2.4 Upon an Expert being agreed or selected under the foregoing provisions of this Article 24 Parties shall forthwith notify such Expert of his selection and shall request him within fourteen (14) Days to intimate whether or not he is willing and able to accept the appointment.

24.2.5 If such Expert shall be either unwilling or unable to accept such appointment or shall not have intimated his willingness and ability to accept such appointment within the said period of fourteen (14) Days, then (unless Parties are able to agree upon the appointment of another Expert) the matter shall again be referred (by either Party) in the aforesaid manner to the Netherlands Arbitration Institute which shall be requested to make a further appointment and the process shall be repeated until an Expert is found who accepts appointment.

24.3 Qualification

24.3.1 No person shall be appointed to act as the Expert under this Article 24 unless he shall be qualified by education, experience and training to determine the matter in dispute.

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24.3.2 Any person appointed as the Expert shall be entitled to act as such Expert, provided he shall before accepting such appointment fully disclose to Parties any interest or duty and any conflict of interest or potential conflict of interest, including all particulars thereof. If such disclosure has been made, any Party may require within five (5) Business Days from such disclosure removal of the Expert, stating the reasons for such removal and such Expert shall be replaced in accordance with this Article 24.

24.3.3 If at any time prior to the Expert rendering a decision on any matter, a conflict or potential conflict of interest arises, then the Expert will fully disclose the particulars of such fact to Parties. In that event any Party may within five (5) Business Days from such disclosure require the removal of the Expert and a new Expert shall be appointed in accordance with the terms of this Article 24. No person shall be appointed as an Expert who at the time of appointment is an employee of either Party or of any Affiliated Company.

24.4 Decision

24.4.1 The Expert appointed shall make his decision based on data, information and submissions supplied and made to him by Parties not later than thirty (30) Days after his acceptance of appointment and he shall ignore data, information and submissions supplied and made after such thirty (30) Days unless the same are furnished in response to a specific request from him.

24.4.2 If within a reasonable period (which shall not exceed ninety (90) Days after the acceptance by the Expert of his appointment) such Expert shall not have rendered a decision then (at the request of either Party) a new Expert shall be appointed under the provisions of this Article 24 and upon the acceptance by such new Expert of his appointment the appointment of the previous Expert shall cease.

24.4.3 However, if the previous Expert shall have rendered a decision prior to the date upon which the new Expert accepts his appointment, such decision shall be binding upon Parties and the instructions to the new Expert shall be withdrawn.

24.4.4 The Expert shall be deemed not to be an arbitrator, but shall render his decision as an Expert and the law or legislation relating to arbitrations shall not apply to such Expert or his determinations or the procedure by which he reaches his determination.

24.4.5 The determination of the Expert shall be final and binding upon Parties, save in the event of fraud, manifest material error or failure by the Expert to disclose any relevant interest or duty in accordance with Article 24.3 under 'Qualification'.

24.4.6 Each Party shall bear the cost and expenses of all counsel, witnesses and employees retained by it in connection with the Expert procedure, but the cost and expenses of the Expert shall be apportioned equally between HNS and Shipper.

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Annex 1. Definitions

Unless explicitly stated otherwise the following words and expressions have the following meaning:

"Affiliated Company":

means in relation to a person (the first person), another party which directly or indirectly controls the first person, is controlled by the first person or under common control with the first person, in each case as to a majority of ownership or voting rights or the equivalent rights to determine the decisions of the first person.

"Agreement":

means a Contract Data Sheet including these General Terms and Conditions as each amended from time to time.

"Allocation Rules":

means the allocation rules of HNS attached as Annex [5] (*Allocation Rules*).

"Annex":

means an annex attached to these General Terms and Conditions.

"Annual Fee":

means a fixed service fee for the Contracted Capacity on a take-or-pay basis, as stipulated in the Contract Data Sheet, chargeable in Euro.

"Application Form":

means the application form by which a prospective Registered Customer, inter alia, accepts these General Terms and Conditions.

"Available Capacity":

means the Contracted Capacity, or in case of a Capacity Restriction, the actual available capacity (consisting of Entry Capacity and/or Exit Capacity) in the HNS Transport System to be used as maximum possible Hourly flow rate of Gas under an Agreement, expressed in kWh (net) per Hour.

"Bar(e)":

means the pressure in bar which is in excess of the atmospheric pressure.

"Business Day":

means any day which is not a Saturday or Sunday or an official holiday as meant in article 3 of the Dutch Act "*Algemene Termijnenwet*".

"Capacity":

means the quantity of Gas that can be transported in the HNS Transport System between specified points (as the case may be), as the HNS Transport System is configured between those points at the relevant time, as determined by HNS acting as a Reasonable and Prudent party, measured in kWh (net) per Hour.

"Capacity Restriction":

means any limitation of the available Capacity in the HNS Transport System, as determined by HNS acting as a Reasonable and Prudent party, measured in kWh (net) per Hour.

"Change of Control":

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means:

- a. a person ceases to directly or indirectly:
 - i. hold beneficially more than fifty per cent (50%) of the issued share capital or similar rights of ownership of Shipper; or
 - ii. control more than fifty per cent (50%) of the voting rights or similar rights in Shipper; or
 - iii. have the right to appoint or remove all, or the majority, of the directors or other equivalent officers of Shipper; or
- b. the sale, transfer or other disposition, in one or a series of related transactions, of all or substantially all of the assets of Shipper.

"Competent Authority":

means any local, national or supra-national agency, authority, department, inspectorate, minister, official, court, tribunal or public or statutory person (whether autonomous or not) of the Netherlands (or the government thereof) or the European Union which has jurisdiction over either Party or the subject matter of the Agreement.

"Connection Agreement":

means any agreement between HNS and an NNO or Connected Party regarding several aspects of the physical connection to the HNS Transport System, including, among others, (operational) safety, measurement, allocation, operational aspects, conditions of operation, data transfers, financial aspects and/or arrangements with regard to installations.

"Connected Party":

means a party with a physical connection to the HNS Transport System that has entered into a Connection Agreement with HNS.

"Contract Data Sheet" or "CDS":

means the document pursuant to which an Agreement is entered into subject to these General Terms and Conditions and in which the specific arrangements between HNS and Shipper are laid down.

"Contracted Capacity":

means the Entry Capacity and/or Exit Capacity contracted by Shipper under an Agreement.

"Credit Control Protocol":

means the credit control protocol of HNS attached as Annex [4] (*Credit Control Protocol*).

"Cushion Gas":

means the Gas which is necessary for the physical operation of the HNS Transport System up to the minimal operating pressure as indicated by HNS. Cushion Gas does not include HNS Linepack.

"Day":

means a period commencing at 00:00 hours LET on any calendar day and ending at 00:00 hours LET on the following calendar day; the date of any Day shall be the date of its beginning as herein defined.

"End Date":

means the 31 December of the Year designated as such in a Contract Data Sheet.

"Entry Capacity":

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means the part of the Capacity that has been contracted by Shipper under an Agreement to be used as a maximum possible Hourly flow rate of Gas in units of kWh (net) per Hour at an Entry Point as specified in a Contract Data Sheet. Entry Capacity does not include any Pipeline Flexibility Amount (if applicable).

"Entry Gas":

means Gas made available or deemed to be made available by Shipper at the Entry Point(s) in units of kWh (net) per Hour under all Agreements between HNS and a Shipper.

"Entry Point(s)":

means the point(s) where Gas enters or is deemed to enter the HNS Transport System under an Agreement.

"Entry Point MHFR":

means the maximum possible Hourly flow rate of Gas, expressed in kWh (net) per Hour at an Entry Point, pursuant to all Agreements entered into between HNS and a Shipper in respect of such Entry Point.

"EURIBOR":

means the one-month Euro Interbank Offered Rates as set by the European Central Bank and as published in Het Financieele Dagblad on the second Business Day of each calendar month and published on Bloomberg (EUR001M <index>).

"Euro" or "€":

means the European currency Euro (€).

"Exit Capacity":

means the part of the Capacity that has been contracted by Shipper under an Agreement to be used as a maximum possible Hourly flow rate of Gas in units of kWh (net) per Hour at an Exit Point as specified in a Contract Data Sheet. Exit Capacity does not include any Pipeline Flexibility Amount (if applicable).

"Exit Gas":

means Gas made available or deemed to be made available by HNS at the Exit Point(s) in units of kWh (net) per Hour under all Agreements between HNS and a Shipper.

"Exit Point(s)":

means the point(s) where Gas leaves or is deemed to leave the HNS Transport System under an Agreement.

"Exit Point MHFR":

means the maximum possible Hourly flow rate of Gas, expressed in kWh (net) per Hour at an Exit Point, pursuant to all Agreements entered into between HNS and a Shipper in respect of such Exit Point.

"Expert":

means a person appointed as such under, and subject to, Article 24.

"Force Majeure":

means any situation in which the conditions of article 6:75 of the Dutch Civil Code are met.

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"Gas":

means a substance that exists in a gaseous state and consists primarily of hydrogen.

"Gas Flow":

means a quantity of Gas, in units of kWh (net) per Hour, that flows through the HNS Transport System.

"General Terms and Conditions" or "GTC":

means these general terms and conditions including the Annexes attached thereto.

"HNS Linepack":

means [the quantity of Gas in addition to the Cushion Gas which HNS determines in its sole discretion to be required or useful for the efficient operations of the HNS Transport System].

"HNS Transport System":

means the part of the Gas pipelines and related equipment owned, controlled and operated by HNS in the Netherlands to which the Entry Point and/or Exit Point are connected, which from time to time shall include any expansion as contemplated in Article 3.1.3.

"Hour" or "Hourly":

means the period of one clock hour, starting at the full hour.

"Hourly Quantity":

means a quantity of Gas expressed in kWh (net) to be delivered or off taken in a specific Hour.

"International Standards":

means the standards and practices from time to time in force applicable to the ownership, design, equipment, operation or maintenance of the Facilities established by the CEN, ISO (or any successor body of the same) and/or any other (inter)nationally recognised agency or organisation with whose standards and practices it is customary for (inter)national operators of such systems for the transport and/or treatment of Gas to comply.

"kWh (net)":

means three decimal six (3.6) million Joules of energy accounted from the Superior Calorific Value of hydrogen only, disregarding any energy from other Gas components.

"Local European Time" or "LET":

means local European time, including daylight saving, being equal to UTC + 1 outside the daylight saving period and equal to UTC + 2 during the daylight saving period. For the avoidance of doubt, the daylight saving period starts at UTC 01:00 hours on the last Sunday in March and ends at UTC 01:00 hours on the last Sunday in October, and UTC is Coordinated Universal Time, according to ISO 8601: 1988 (E).

"Measured Gas Flow":

means the Hourly flow rate of Gas, expressed in kWh (net) per Hour as measured in accordance with an Agreement, that flows through an Entry Point or Exit Point.

"Month" or "Monthly":

means a period commencing at 00:00 hours LET on the first day of a calendar month and ending at 00:00 hours LET on the first day of the subsequent calendar month.

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"Monthly Data":

means the allocated data derived from the Measured Gas Flow over a period of a Month and corrected (if needed) offline.

"Near Real Time Data":

means the allocated data derived from the Measured Gas Flow made available in near real time.

"Neighbouring Network Operator" or "NNO":

means the operator of the Gas pipeline(s) connected to the HNS Transport System.

"Non Compliant Gas":

means Gas that does not comply with the specifications as set out in Annex [2] (*Quality and pressure specifications*).

"Operating Manual":

means the operating manual attached as Annex [3] (*Operating Manual*).

"Party":

means a Party to an Agreement.

"Pipeline Flexibility Amount":

means [the quantity of Gas that may be stored by Shipper in the HNS Transport System, as stipulated in the Contract Data Sheet. Contracted Capacity does not include the Pipeline Flexibility Amount].

"Pipeline Flexibility Fee":

means [a fixed service fee for making available the Pipeline Flexibility Amount on a take-or-pay basis, as stipulated in the Contract Data Sheet, chargeable in Euro].

"Quantity":

shall mean a quantity of Gas, Exit Gas or Entry Gas expressed in kWh (net), as the case may be.

"Reasonable and Prudent":

means a Party fulfilling its obligations under an Agreement with that degree of diligence, skill, prudence and foresight as reasonably and ordinarily exercised by parties engaged in the same line of business under the same or similar circumstances and conditions and in accordance with good practice, and in case of HNS, taking into account the interest of the HNS Transport System and its users as a whole.

"Reduced Capacity Day":

means a Day during which the Capacity available for transport by Shipper is less than the Contracted Capacity with a minimum of zero (0).

"Reduced Capacity Hour":

means an Hour during which the Capacity available for transport by Shipper is less than the Contracted Capacity with a minimum of zero (0).

"Registered Customer":

has the meaning given thereto in Article 2.1.

"Service Period":

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means the period of time commencing at the Start Date at 00:00 hours LET and expiring at the End Date at 00:00 hours LET and with a minimum period of one full Year.

"Services":

means any of the services as stipulated in Article 4.

"Shipper":

means Registered Customer to which Services are rendered by HNS under an Agreement.

"Shipper Code":

means the unique code, assigned to Registered Customer by HNS.

"Start Date":

means the start date as stipulated in a Contract Data Sheet.

"Superior Calorific Value":

means the amount of energy, expressed in MJ, released by the complete combustion in air of one (1) m³(n) of Gas in such a way that the pressure of 101.325 kPa (1.01325 bar) at which the reaction takes place remains constant and all the products of combustion are returned to the same temperature of 298.15 K as the temperature of the reactants, all of these products being in the gaseous state except for water formed by combustion which is condensed to the liquid state at a temperature of 298.15 K.

"System Balance":

means the cumulative difference between (i) the allocated Quantity of Entry Gas on all Entry Points in the HNS Transport System and (ii) the allocated Quantity of Exit Gas on all Exit Points in the HNS Transport System.

"Tax":

means all present and future taxes, duties, levies, assessments, charges, fees, deductions and withholdings in all relevant jurisdictions imposed by a Competent Authority on the contracted Services performed by HNS under an Agreement, including for the avoidance of doubt VAT.

"Total Annual Fees":

means the aggregate Annual Fees payable by Shipper to HNS in a Year pursuant to all Agreements in respect of an Entry Point or Exit Point, as the case may be, entered into between HNS and Shipper.

"VAT":

means: (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112), and (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

"Wilful Misconduct or Gross Negligence":

means wilful misconduct (*opzet*) or gross negligence (*bewuste roekeloosheid*) by a Party or any of its Affiliated Companies (acting for and on behalf of a Party) and/or its (or such Affiliated Company's) officers, directors or employees of managerial or supervisory status of the terms of an Agreement in utter disregard of avoidable and harmful consequences but shall not include any act, omission, error of judgement or mistake made in the exercise in good faith of any function, authority or discretion vested in or exercisable by such person and which in the exercise of such

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good faith is justifiable by special circumstances, including safeguarding of life, property or the environment and other emergencies.

"Winding-Up":

means, in relation to a person:

- i. any bankruptcy, suspension of payments or other insolvency proceedings in relation to that person;
- ii. the appointment of a liquidator, trustee, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of that person or any of its assets;
- iii. any composition, compromise, assignment or arrangement with that person's creditors or any class of them;
- iv. that person's death, dissolution or liquidation;
- v. any amalgamation, merger, demerger, transformation or corporate reconstruction of that person;

and any analogous procedure or step taken, or event occurring, in any jurisdiction.

"Year":

means a period (or a reference to a period) commencing at 00:00 hours LET on January 1st and ending at 00:00 hours LET on the following January 1st.