

part of eex group



General Terms and
Conditions to the
Agreement on the
technical connection
and the utilization of the
EDP System of the
European Energy
Exchange (EEX).

23.09.2019
Leipzig

Ref. 0001A

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1. Scope of Application

These General Terms and Conditions (“GTC”) govern the provision of access to the T7 Clearer GUI frontend (“T7 Clearer GUI”) by European Energy Exchange AG (“EEX AG”) and the use thereof by a Clearing-Member which possesses a System Clearing License with the European Commodity Clearing AG (“ECC AG”).

2. Definitions

- 2.1 „Contractual Party“: Any System Clearing Member of ECC AG, which has entered into a Connection Agreement with EEX AG.
- 2.2 “Connection Agreement“: Any Agreement regarding the provision of access to T7 Clearer GUI and the utilization thereof. The Connection Agreement is entered into by the Contractual Party submitting a duly completed and signed order form (Order technical access T7 Clearer GUI, Ref. T02) and EEX AG accepting such order by providing the relevant service.
- 2.3 For further definitions, reference is made to Section 1 („Definitions“) of the Implementation Regulations of EEX concerning technical equipment (“Technical Implementation Regulation”), which is available on the website of EEX AG (www.eex.com).

3. Technical Implementation Regulation

For the purposes of these GTC and insofar as these GTC do not include deviating provisions, the Technical Implementation Regulation in their respective valid version and as amended from time to time shall apply mutatis mutandis to any Contractual Party.

4. Utilization of the EDP-System

- 4.1 The Contractual Party shall be entitled to use the EDP-System in accordance with the regulations of EEX and the present GTC. The Contractual Party shall refrain from any misuse of the EDP-System, in particular refrain from any utilization of the EDP-System contravening orderly exchange trading and its settlement.
- 4.2 EEX AG shall be obliged for the duration of the Connection Agreement and subject to the technical possibility and economical reasonableness, to take appropriate measures to enable the contractual utilization of the EDP-System subject to the regulations of EEX. In case of an interruption of the availability of the EDP-System, EEX AG shall be obliged, subject to the technical possibility and economical reasonableness, to take immediate measures to restore the contractual utilization of the EDP-System.
- 4.3 EEX AG shall be entitled to commission third parties to carry out some or all tasks necessary to perform the Connection Agreement.

5. Liability

- 5.1 EEX AG shall be liable only within the following scope:
- (a) EEX AG shall be liable without limitation, provided that the cause of damage is based on wilful intent or gross negligence.
- (b) EEX AG shall further be liable for the slightly negligent infringement of Essential Obligations. Essential Obligations are those whose infringement jeopardizes the contractual purpose, or whose fulfilment enables proper implementation of the Connection Agreement in the first place and on the compliance of which the Contractual Party may regularly rely. In such case, however, EEX AG shall be liable only for the foreseeable, contract-typical damage. EEX AG shall not be liable for the slightly negligent infringement of any obligations other than Essential Obligations.

- 5.2 The limitations of liability outlined above shall not apply to any injury to life, body and health or any liability pursuant to the German Product Liability Act.
- 5.3 For the duration that one or both Parties are prevented from fulfilling their contractual obligations on account of events of Force Majeure, such obligations shall be suspended. Any liability for damage arising therefrom shall be excluded. Force Majeure shall include any exceptional event or a set of circumstances which are outside the control of the Parties, which the Parties could not have reasonably foreseen or avoided by the exercise of appropriate and reasonable due diligence and which prevent one or both Parties from fulfilling their contractual obligations.
- 6. Duration of the Connection Agreement and Termination**
- 6.1 The Connection Agreement is concluded for an unlimited duration. The parties shall be entitled to terminate the Connection Agreement giving one month notice to the end of a calendar month. The Agreement shall terminate automatically upon termination of System Clearing License of the Contractual Party with ECC AG.
- 6.2 The right of the parties to terminate the Connection Agreement without notice for material reason shall not be affected.
- 6.3 Any termination of the Connection Agreement shall be made in writing.
- 7. Transfer of rights and responsibilities under this Agreement**
- EEX AG shall be entitled to assign or transfer all rights and obligations under the Connection Agreement to an affiliated company within the meaning of Sections 15 et seqq. of the German Stock Corporation Act (Aktengesetz). Upon assignment of the Connection Agreement, only the assuming company shall possess the rights and be subject to the obligations associated with the Connection Agreement; EEX AG shall be released from all obligations under the Connection Agreement. In case EEX AG intends to carry out such assignment, the Contractual Party shall be informed in advance with prior notification of six weeks.
- 8. Amendments**
- EEX AG is entitled to amend these GTC at any time having due regard to the interests of the Contractual Party. Amendments to these GTC will be notified to the Contractual Party at least six weeks prior to their effective date. They are deemed to have been approved if the Contractual Party does not lodge objections with EEX AG within six weeks of notification of the amendment.
- 9. Confidentiality**
- 9.1 The Parties agree to keep confidential and secure against unauthorized access, both during and after the duration of the Connection Agreement, any information to which they have been granted access to within the context of the cooperation by the respective other Party, its affiliated companies, advisors or by other third parties acting on its behalf, or of which they have gained knowledge within the context of the cooperation. Each Party shall also impose the obligations to maintain confidentiality on any and all persons or companies which have been entrusted with the provision of services in connection with the Connection Agreement. The Parties are entitled to disclose the information to affiliated companies within the meaning of Sections 15 et seqq. of the German Stock Corporation Act (Aktengesetz) as well as to their service providers to the extent that such disclosure is necessary for business operations and that the recipients of such information are obligated to keep such information strictly confidential. Each Party is entitled to disclose information to third parties, in particular to public bodies, to the extent such disclosure is required due to applicable law or acts of authorities. The respective other Party is to be provided with advance notification of such disclosure in writing; in case such notification is prohibited by law, notification shall be provided immediately upon such prohibition becoming ineffective.

- 9.2 Any information which
- (a) is publicly available or which was already known to the receiving Party at the time of receipt or which was subsequently published by the disclosing Party, or which
 - (b) was developed independently and autonomously by the receiving Party without knowledge or use of equivalent information of the respective other Party, or which
 - (c) was disclosed to the receiving Party by a third party which, to the best of the knowledge of the receiving Party, is authorized to disclose such information and which is not subject to an obligation to maintain secrecy,
- is exempt from the obligation to maintain confidentiality.

10. Data Protection

- 10.1 In the course of the preparation, negotiation or performance of this Connection Agreement, EEX AG may receive Personal Data from the Contractual Party (e.g. Personal Data of its employees). EEX will process Personal Data exclusively for the purposes of this Connection Agreement and in accordance with the General Data Protection Regulation EU 2016/679 ("GDPR") as further outlined in the EEX Privacy Policy, which is available on the website of EEX (www.eex.com).
- 10.2 The Contractual Party ensures and guarantees that all Personal Data provided by it to EEX AG is provided in accordance with the GDPR. In particular, the Contractual Party shall inform any individual about the provision of its Personal Data to EEX and the EEX Privacy Policy and obtain the consent of such individual prior to providing its Personal Data to EEX AG.

11. Miscellaneous

- 11.1 The Connection Agreement shall be governed by the laws of the Federal Republic of Germany to the exclusion of the conflict of laws provisions thereof and the United Nations Convention on Contracts for the International Sale of Goods.
- 11.2 Leipzig shall be the exclusive legal venue for all conflicts arising in connection with the Connection Agreement.