

CONTRATTO DI FORNITURA - ANNUALE

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Schedule 1

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General Agreement

Concerning The Delivery And Acceptance Of Natural Gas

Between

_____ BP Italia S.p.A. _____

having its registered office at _____ via A Cechov 50/2 - 20151, Milano, Italia _____

("BP")

and

_____ having its registered office at _____

_____ ("[abbreviation of name]")

(referred to jointly as the "Parties" and individually as a "Party")

entered into on _____ (the "Effective Date")

Executed by the duly authorised representative of each Party effective as of the Effective Date.



BP Italia S.p.A.

[Name of Party]

Marco Candelloro

Head of Gas, Italy

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§ 1

Subject of Agreement

1. **Subject of Agreement:** Unless otherwise specified in the Election Sheet, this General Agreement (which includes its Annexes and the election sheet ("**Election Sheet**")) governs all transactions the Parties shall enter into for the purchase, sale, delivery and acceptance of Natural Gas including Options on the purchase, sale, delivery and acceptance of Natural Gas (each such transaction being an "**Individual Contract**"). The Parties enter into this General Agreement and into Individual Contracts on the understanding that all Individual Contracts and this General Agreement shall form a single agreement between the Parties (collectively referred to as the "Agreement") and that the Parties would not enter into Individual Contracts if this was not the case. The provisions of this General Agreement constitute an integral part of, but may be supplemented by the terms of, each Individual Contract.

2. **Pre-Existing Contracts:** If § 1.2 (*Pre-Existing Contracts*) is specified as applying in the Election Sheet, each transaction between the Parties regarding the purchase, sale, delivery and acceptance of Natural Gas, including Options on such transactions, entered into before the Effective Date but which remain either not yet fully or partially performed by one or both Parties, is deemed to be an Individual Contract under the Agreement.

§ 2

Definitions and Construction

1. **Definitions:** Terms used in the Agreement shall have the meanings set out in Annex 1.
2. **Inconsistencies:** In the event of any inconsistency between the provisions of the Election Sheet and the other provisions of this General Agreement, the Election Sheet shall prevail. In the event of any inconsistency between the terms of an Individual Contract (whether evidenced in a Confirmation or by other means) and the provisions of this General Agreement (including its Election Sheet), the terms of the Individual Contract shall prevail for the purposes of that Individual Contract.
3. **Interpretation:** Headings and titles are for convenience only and do not affect the interpretation of the Agreement.
4. **References to Time:** References to time shall be to Central European Time (CET) unless otherwise specified in the Election Sheet or the terms of an Individual Contract.
5. **Energy Units:** If the terms of an Individual Contract do not specify which energy units shall apply, the Parties shall operate such Individual Contract in MWh unless the Parties agree otherwise.

§ 3

Concluding and Confirming Individual Contracts

1. **Conclusion of Individual Contracts:** Unless otherwise agreed between the Parties, Individual Contracts may be concluded in any form of communication (whether orally or otherwise) and shall be legally binding and enforceable from the time the terms of such Individual Contract are concluded.
2. **Confirmations:** In the event that an Individual Contract is not concluded in written form, both Parties shall be free to confirm, or have confirmed, in writing their understanding of the agreed terms of the Individual Contract (each such written confirmation constituting a "**Confirmation**"). A Confirmation shall not constitute a requirement for a legally valid Individual Contract. A Confirmation shall contain the information stipulated in, and shall be substantially in the form of the applicable confirmation sheet from among those attached to this General Agreement as Annex 2 a – d.

3. **Objections to Confirmations:** Without prejudice to the provisions of § 3.2 (*Confirmations*), if a Party receives a Confirmation, it shall promptly review the terms of such Confirmation and if they differ from its understanding of the terms of the applicable Individual Contract notify the other Party of any inconsistency without delay. If both Parties send a Confirmation without delay and their terms contradict, then each such Confirmation shall be deemed to be a notice of objection to the terms of the other Party's Confirmation.

4. **Authorised Persons:** If § 3.4 (*Authorised Persons*) is specified as applying to a Party in the Election Sheet, Individual Contracts may be negotiated, confirmed and signed on behalf of that Party exclusively by those persons listed by it for such purposes as may be specified in an Annex to this General Agreement. Each Party may unilaterally amend and supplement in writing the list of persons currently authorised to act on its behalf at any time. Such amendments and supplements shall become effective upon their receipt by the other Party.

§ 4

Primary Obligations For Delivery and Acceptance of and Payment For Natural Gas

1. **Delivery and Acceptance and Net Scheduling Obligations:**

- (a) In accordance with each Individual Contract, the Seller shall Schedule and deliver, or cause to be delivered, at the Delivery Point the Contract Quantity during each Time Unit of the Total Supply Period and the Buyer shall Schedule and accept, or cause to be accepted, at the Delivery Point the Contract Quantity during each Time Unit of the Total Supply Period. In performing their respective obligations under this § 4.1, the Seller and the Buyer shall Schedule against the Applicable Code.
- (b) Provided that (i) the Parties are mutually agreeable to Scheduling their receipts and deliveries on a net basis and (ii) it is possible to so Schedule at the relevant Delivery Point; then where in respect of any Time Unit there is more than one Individual Contract between the Parties for delivery of Natural Gas at the same Delivery Point, each Party shall be deemed to have fulfilled its obligations to Schedule in respect of the Contract Quantity for each such Individual Contract for the relevant Time Unit if it Schedules to the Network Operator the aggregate net result of all Contract Quantities being bought and sold under all relevant Individual Contracts between the Parties in such Time Unit at such Delivery Point (the "**Net Contract Quantity**"); in such circumstances the Party delivering Natural Gas shall be the "**Net Seller**" and the Party receiving Natural Gas shall be the "**Net Buyer**". In instances where the Net Contract Quantity for a Time Unit and Delivery Point is zero, the Parties shall be relieved of any obligation to Schedule in respect of such Time Unit. For the avoidance of doubt, the Parties fully intend at the time of entering into each Individual Contract that such Individual Contract will result in physical delivery, and it is simply for administrative convenience that the Parties may agree to net Schedule. Unless otherwise provided, if there is more than one Individual Contract between the Parties for delivery of Natural Gas at the same Delivery Point in the same Time Unit, all references in this General Agreement and an Individual Contract to a "**Seller**" shall be deemed to be references to a "**Net Seller**", references to a "**Buyer**" shall be deemed to be references to a "**Net Buyer**", references to a "**Contract Quantity**" to a "**Net Contract Quantity**" and references to an "**Individual Contract**" shall be deemed to be references to all such Individual Contracts.

2. **Definition of Schedule and Applicable Code:**

"**Schedule**" shall mean, as applicable, those actions necessary for a Party to effect its respective delivery or acceptance obligations, which may include nominating, scheduling, matching, notifying, requesting and confirming with the other Party, their respective designated agents and authorised representatives, and the Network Operator, as applicable, the Contract Quantity (and exchanging relevant shipper codes), for each Time Unit for each Individual Contract as required in accordance with (a) any relevant terms of the Individual Contract, (b) the Nomination and Allocation Arrangements and (c) any applicable rules and/or procedures of the Network Operator.

The "**Applicable Code**" shall be determined as follows:

- (a) the Applicable Code shall either be the code issued by, in the case of the Buyer, the Physical Downstream Transporter to the person to whom delivery is to be made or, in the case of the Seller, the code issued by the Physical Upstream Transporter to the person who is to make the delivery;
- (b) the Parties acknowledge that the Applicable Code that they are required to Schedule against may not be the other Party's code provided that the Applicable Code is a code of a person who has the right to offtake Natural Gas from the Physical Upstream Transportation System at the Delivery Point or of a person who has transportation capacity from the Delivery Point in the Physical Downstream Transportation System, as applicable;
- (c) each Party shall, in respect of each Time Unit in the Total Supply Period, provide the other Party with the Applicable Code(s) on a timely basis taking into account the rules and procedures of the Physical Upstream Transporter and the Physical Downstream Transporter;
- (d) subject to the Buyer complying with its obligations under § 4.2(c), if the Seller fails in respect of a Time Unit to Schedule against the Applicable Code, the Seller shall be deemed to be in Seller's Default for the purposes of § 8 (***Remedies for Failure to Deliver or Accept the Contract Quantity***);
- (e) subject to the Seller complying with its obligations under § 4.2(c), if the Buyer fails in respect of a Time Unit to Schedule against the Applicable Code, the Buyer shall be deemed to be in Buyer's Default for the purposes of § 8 (***Remedies for Failure to Deliver or Accept the Contract Quantity***); and
- (f) neither the Seller nor the Buyer shall be entitled to claim Force Majeure for any failure by the relevant Network Operator to deliver Natural Gas to or from the Delivery Point in a Time Unit which failure results from an act or omission of a person whose Applicable Code they have provided to the other Party for such Time Unit in accordance with this § 4.2.

3. Payment for Natural Gas: In respect of each Individual Contract the Buyer shall pay the Seller for the Delivered Quantity in respect of each Time Unit of each Month at the Contract Price in accordance with the provisions of § 13 (***Invoicing and Payment***).

§ 5

Primary Obligations for Options

1. Delivery and Acceptance Pursuant to an Option: When an Individual Contract provides for the purchase and sale of a physical option to buy Natural Gas (a "Call Option") or to sell Natural Gas (a "Put Option") (each, an "Option"), the seller of the Option (the "Writer") grants to the purchaser of the Option (the "Holder") the right, but not the obligation, by complying with certain designated procedures described below in this § 5 (***Primary Obligations for Options***), to require each Party to meet its respective obligations under § 4 (***Primary Obligations for Delivery and Acceptance of and Payment for Natural Gas***) for the delivery and acceptance of, and payment for, Natural Gas in accordance with that respective Individual Contract.

2. Premium for the Option: The Holder shall pay the Writer the Premium for the Option on or before the Premium Payment Date (and if no Premium Payment Date is designated in the terms of the Individual Contract, the Premium Payment Date shall be the fifth (5th) Business Day following the day on which the Parties entered into the Individual Contract). If the Option is Exercised, invoicing and payment of the Contract Price for the Delivered Quantities in each Time Unit shall be in accordance with §13 (***Invoicing and Payment***) unless otherwise agreed.

3. Exercise of Option and Deadline: The Holder of an Option may exercise its rights under the Option (in accordance with § 5.4 (***Notice of Exercise***)) by giving the Writer irrevocable notice of such Exercise during the Exercise Period. Unless otherwise agreed in the Election Sheet, if no Exercise Deadline is specified in an

Individual Contract for an Option, the Exercise Deadline shall be 1700 hours on the fifth Business Day prior to commencement of the Total Supply Period under such Individual Contract.

4. Notice of Exercise: Each notice of Exercise shall be effective upon receipt by the Writer and may be given in writing or verbally, provided that Exercise may not be effected by email and verbal Exercise may not be effected by leaving a message on a voicemail or similar verbal electronic messaging system. In the case of verbal Exercise, the Holder shall promptly confirm the Exercise in writing (including without limitation by facsimile), provided that such written confirmation is not a prerequisite to the validity of verbal Exercise.

§ 6

Delivery, Measurement, Transportation and Risk

- 1. Off-Spec Gas:** The provisions of § 8a (*Off-Spec Gas*) shall apply in respect of Off-Spec Gas.
- 2. Flat Transactions:** In respect of an Individual Contract the Contract Quantity shall be the same for each Time Unit during the Total Supply Period unless otherwise agreed by the Parties.
- 3. Transfer of Rights to Natural Gas:** In respect of each Individual Contract the Seller warrants and represents to the Buyer that in each Time Unit it has the right to transfer (or cause to be transferred) to the Buyer full entitlement to the Delivered Quantity at the Delivery Point free and clear of any adverse claims and the Seller shall indemnify and hold harmless the Buyer against any such adverse claims in respect of the Delivered Quantity or any part thereof.
- 4. Measurement of Natural Gas Deliveries and Receipts:** In respect of an Individual Contract and each Time Unit of the Total Supply Period, the quantity of Natural Gas delivered by the Seller and accepted by the Buyer (the "**Delivered Quantity**") for such Individual Contract for such Time Unit shall be determined in accordance with the Nomination and Allocation Arrangements at the Delivery Point and the allocation statements of the relevant Network Operator; provided, however, that, subject to § 4.1(b) (*Delivery and Acceptance and Net Scheduling Obligations*), where there is more than one Individual Contract between the Parties for a Time Unit at the same Delivery Point, the Delivered Quantity shall be deemed to be a reference to the Quantity of Natural Gas delivered by the Net Seller and accepted by the Net Buyer in respect of all such Individual Contracts. The Parties may agree which meter readings and/or allocation statements shall prevail in respect of an Individual Contract. The meaning of "Nomination and Allocation Arrangements" shall be construed taking into account any such agreement in respect of an Individual Contract.
- 5. Documentation of Scheduled Quantities and Delivered Quantities:** Upon reasonable request, a Party shall:
 - (a) provide to the other Party documentation in its possession or control that evidences quantities Scheduled and Delivered Quantities in respect of an Individual Contract for the purposes of determining the cause of any deviations between the Contract Quantities for each Time Unit pursuant to the terms of an Individual Contract and the Delivered Quantities for such Time Units; and
 - (b) use its reasonable and diligent efforts to request and acquire from the Network Operator, and shall share with the requesting Party, any additional documentation necessary to reconcile inconsistencies between Contract Quantities and Delivered Quantities pursuant to any Individual Contracts.

PROVIDED THAT the obligations of a Party under (a) and (b) above shall only require it to extract from such documentation and provide to the other Party information relating to Individual Contracts between the Parties and not information relating to contracts or transactions with other counterparties.

Without prejudice to (a) and (b) above, where the Parties have agreed in respect of an Individual Contract that a single set of allocation statements shall prevail, the Party receiving them if so requested by the other Party shall, within three Business Days of receiving such allocation statements, provide copies of them (or of the relevant information in, or derived from, them) relating to the Individual Contract to the requesting Party except where both Parties have received copies of such allocation statements from the Network Operator.

6. Reimbursement of External Costs: In the event that a Party, at the request of the other Party or to resolve a dispute raised by the other Party, incurs reasonable external expenses in verifying that it has properly

performed its delivery or acceptance obligations or that the other Party has failed to properly perform its delivery or acceptance obligations under the terms of an Individual Contract, such expenses shall, upon request by the Party which incurred them, be reimbursed by the Party that raised such dispute or requested such verification if the Party requesting reimbursement is shown to have been right.

7. Seller and Buyer Risks: Subject to § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*), in respect of each Individual Contract and each Time Unit of the Supply Period,:

- (a) Seller shall bear all risks associated with and shall be responsible for any costs or charges imposed on or associated with Scheduling, transportation and delivery of the Contract Quantity up to the Delivery Point (including all risks associated with the Seller's System, if applicable); and
- (b) Buyer shall bear all risks associated with and shall be responsible for any costs or charges imposed on or associated with Scheduling, acceptance and transportation of, the Contract Quantity at and from the Delivery Point (including all risks associated with the Buyer's System, if applicable).

§ 7

Non-Performance Due to Force Majeure

1. Definition of Force Majeure: Unless otherwise specified in the Election Sheet, for purposes of the Agreement "**Force Majeure**" means an occurrence beyond the reasonable control of the Party claiming Force Majeure (the "**Claiming Party**") which it could not reasonably have avoided or overcome and which makes it impossible for the Claiming Party to perform or procure performance of its delivery or acceptance obligations, including, but without limitation, due to one or more of the following:

- (a) the failure of communications or computer systems of the relevant Network Operator(s) which prevents the Claiming Party from performing its obligations of delivery or acceptance; or
- (b) the relevant Network's Operator failure to respond to all efforts by the Claiming Party to communicate with such Network Operator;

Provided that "**Force Majeure**" shall not include any curtailment or interruption of transportation rights or any problem, occurrence or event affecting any relevant pipeline system unless this constitutes a Transportation Failure.

2. Release from Delivery and Acceptance Obligations: If a Party is fully or partly prevented due to Force Majeure from performing or procuring performance of its obligations of delivery or acceptance under one or more Individual Contracts and such Party complies with the requirements of § 7.3 (*Notification and Mitigation of Force Majeure*) then, without prejudice to § 7.5 (*Long Term Force Majeure Limit*), no breach or default on the part of the Claiming Party shall be deemed to have occurred and it shall be released (and not merely suspended) from those obligations but only for the period of time and to the extent that such Force Majeure prevents its performance. Without prejudice to § 7.5 (*Long Term Force Majeure Limit*), no obligation to pay damages pursuant to § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*) will accrue to the Claiming Party with respect to Default Quantities arising under such Individual Contracts as a result of Force Majeure affecting the Claiming Party's obligation.

3. Notification and Mitigation of Force Majeure: The Claiming Party shall as soon as practicable after learning of the Force Majeure notify the other Party of the commencement of the Force Majeure and of the Individual Contract(s) affected thereby and, to the extent then available, provide to it a bona fide non-binding estimate of the extent and expected duration of its inability to perform. The Claiming Party shall use all commercially reasonable efforts to mitigate and overcome the effects of the Force Majeure (which, in the case of a Transportation Failure, shall include using all commercially reasonable efforts to procure that the relevant Network Operator mitigates and overcomes the effects of the Transportation Failure) and shall, during the continuation of the Force Majeure, provide the other Party with reasonable bona fide updates, when and if available, of the extent and expected duration of its inability to perform such Individual Contract(s).

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4. Effects of Force Majeure on Other Party: In the event, and to the extent, that a Seller's delivery obligations are released by Force Majeure, the Buyer's corresponding acceptance and payment obligations shall also be released. In the event, and to the extent that a Buyer's acceptance obligations are released by Force Majeure, the Seller's corresponding delivery obligations shall also be released.

5. Long Term Force Majeure Limit: Where in respect of an Individual Contract the obligations of the Claiming Party have been adversely affected by Force Majeure on each Day for a consecutive period of Days exceeding the Long Term Force Majeure Limit and by on average more than fifty (50) per cent of the contracted quantity during such period, then the Party which is not the Claiming Party shall have the right to terminate such Individual Contract forthwith by written notice to the Claiming Party. Such termination shall be without prejudice to the accrued rights and obligations of the Parties under such Individual Contract up to the date of termination but neither Party shall have any liability whatsoever to the other in respect of the unexpired portion of the Total Supply Period under such Individual Contract after the date of termination.

§ 8

Remedies for Failure to Deliver or Accept the Contract Quantity

1. Underdelivery: If in respect of a Time Unit and an Individual Contract, the Contract Quantity exceeds the Delivered Quantity by more than the Tolerance by reason of Seller's Default, the Seller shall pay to the Buyer as compensation for its resulting losses an amount equal to the product of:

- (a) the amount, if positive, by which the price, at which the Buyer acting in a commercially reasonable manner is or would be able to contract to purchase or otherwise acquire in an arm's length purchase from a third party (which may include the relevant Network Operator) an equivalent quantity of Natural Gas to replace the Default Quantity for such Time Unit, exceeds the Contract Price; and
- (b) the Default Quantity.

Such amount shall be increased by the amount of any incremental transportation costs and charges and other reasonable and verifiable costs or expenses incurred by the Buyer in respect of the Default Quantity.

2. Under Acceptance: If in respect of a Time Unit and an Individual Contract, the Contract Quantity exceeds the Delivered Quantity by more than the Tolerance by reason of Buyer's Default, the Buyer shall pay to the Seller as compensation for its resulting losses an amount equal to the product of:

- (a) the amount, if positive, by which the Contract Price exceeds the price at which the Seller acting in a commercially reasonable manner is or would be able to contract to sell a quantity of Natural Gas equivalent to the Default Quantity in an arm's length sale to a third party (which may include the relevant Network Operator) for such Time Unit; and
- (b) the Default Quantity.

Such amount shall be increased by the amount of any incremental transportation costs and charges and other reasonable and verifiable costs or expenses incurred by the Seller in respect of the Default Quantity.

3. Overdelivery: If in respect of a Time Unit and an Individual Contract, the Delivered Quantity exceeds the Contract Quantity by more than the Tolerance by reason of Seller's Default, the Seller shall pay to the Buyer as compensation for its resulting losses an amount equal to the product of:

- (a) the amount, if positive, by which the Contract Price exceeds the price at which the Buyer acting in a commercially reasonable manner is or would be able to contract to sell in an arm's length sale to a third party (which may include the relevant Network Operator) a quantity of Natural Gas equal to the absolute value of the Default Quantity for such Time Unit; and
- (b) the absolute value of the Default Quantity.

Such amount shall be increased by the amount of any incremental transportation costs and charges and other reasonable and verifiable costs or expenses incurred by the Buyer in respect of the Default Quantity or such arm's length sale.

4. Over Acceptance: If in respect of a Time Unit and an Individual Contract, the Delivered Quantity exceeds the Contract Quantity by more than the Tolerance by reason of Buyer's Default, the Buyer shall pay to the Seller as compensation for its resulting losses an amount equal to the product of:

- (a) the amount, if positive, by which the price, at which the Seller acting in a commercially reasonable manner is or would be able to contract to purchase or otherwise acquire in an arm's length purchase from a third party (which may include the relevant Network Operator) a replacement quantity of Natural Gas for such Time Unit equal to the absolute value of the Default Quantity, exceeds the Contract Price; and
- (b) the absolute value of the Default Quantity.

Such amount shall be increased by the amount of any incremental transportation costs and charges and other reasonable and verifiable costs or expenses incurred by the Seller in respect of the Default Quantity or the acquisition of such replacement quantity.

5. Definitions and Interpretation: For the purposes of this § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*) the following definitions and interpretation shall apply:

- (a) a Default Quantity shall be deemed to arise by reason of "**Seller's Default**" if it arises because the Seller failed, in respect of the relevant Time Unit and Individual Contract, to comply with its obligations under § 4.1 (*Delivery and Acceptance*) or the Default Quantity is attributable to the Seller pursuant to § 6.7 (*Seller and Buyer Risks*) unless, in each case, the Seller is relieved from liability on the grounds of Force Majeure in accordance with § 7 (*Non-Performance Due to Force Majeure*);
- (b) a Default Quantity shall be deemed to arise by reason of "**Buyer's Default**" if it arises because the Buyer failed, in respect of the relevant Time Unit and Individual Contract, to comply with its obligations under § 4.1 (*Delivery and Acceptance*) or the Default Quantity is attributable to the Buyer pursuant to § 6.7 (*Seller and Buyer Risks*) unless, in each case, the Buyer is relieved from liability on the grounds of Force Majeure in accordance with § 7 (*Non-Performance Due to Force Majeure*);
- (c) for the purposes of § 8.1 (*Underdelivery*) and § 8.3 (*Overdelivery*) and subject to § 4.1(b) (*Delivery and Acceptance and Net Scheduling Obligations*), where there is more than one Individual Contract between the Parties in respect of a Time Unit and a Delivery Point, the Contract Quantity shall be the Net Contract Quantity, the Contract Price shall be the energy weighted average of the Contract Prices of the relevant Individual Contracts for that Time Unit and that Delivery Point in respect of which the Net Seller is the Seller and the "**Default Quantity**" shall be the difference between the Net Contract Quantity and the Delivered Quantity; and
- (d) for the purposes of § 8.2 (*Under Acceptance*) and § 8.4 (*Over Acceptance*) and subject to § 4.1(b) (*Delivery and Acceptance and Net Scheduling Obligations*), where there is more than one Individual Contract between the Parties in respect of a Time Unit and a Delivery Point, the Contract Quantity shall be the Net Contract Quantity, the Contract Price shall be the energy weighted average of the Contract Prices of the relevant Individual Contracts for that Time Unit and that Delivery Point in respect of which the Net Buyer is the Buyer and the "**Default Quantity**" shall be the difference between the Net Contract Quantity and the Delivered Quantity.

6. Amounts Payable: Amounts that are due according to this § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*) shall be invoiced and paid in accordance with § 13 (*Invoicing and Payment*).

7. Genuine and Reasonable Estimate: The Parties agree and acknowledge that sums calculated in accordance with § 8.1 (*Underdelivery*) to § 8.4 (*Over Acceptance*) (as applicable) will represent a genuine and reasonable estimate of the costs and losses likely to be suffered by the Buyer in the event of Seller's Default or by the Seller in respect of Buyer's Default.

8. Use of Tolerance: Where, in respect of an Individual Contract and a Time Unit, the absolute value of the Default Quantity is less than the Tolerance, the Tolerance shall be deemed to be zero (notwithstanding that a non-zero Tolerance is specified in the Election Sheet or in the terms of the Individual Contract) in the event that

the Party (which would, in the absence of the non-zero Tolerance, be required to make a payment under this § 8) has failed to take all the steps within its reasonable control to Schedule the correct Contract Quantity for such Individual Contract for such Time Unit.

§ 8a

Off-Spec Gas

1. **Seller's Obligation:** In respect of an Individual Contract, the Seller shall procure that Natural Gas delivered at the Delivery Point conforms to the Transportation Requirements.

2. **Notification:** As soon as reasonably practicable after the Seller becomes aware that Natural Gas which is being delivered at the Delivery Point, or which is about to be delivered, is Off-Spec Gas, it shall:

- (a) serve notice of that fact on the Buyer, specifying the nature and extent of the non-conformity with the Transportation Requirements, and the cause and probable duration of the non-conformity;
- (b) take such steps as are reasonably practicable to procure that Natural Gas which conforms with the Transportation Requirements is made available as soon as reasonably practicable;

and the Seller shall keep the Buyer fully informed in relation to the problem and the steps being taken to remedy it. If the Buyer becomes aware that Natural Gas which is being delivered at the Delivery Point is Off-Spec Gas (before it receives notice from the Seller pursuant to § 8a.2(a)) it shall notify the Seller of that fact and of any information available to it as to the nature, extent and cause of the non-conformity.

3. **Rights of the Buyer:** If Natural Gas to be delivered or being delivered at the Delivery Point is Off-Spec Gas and if the Physical Downstream Transporter has refused to take delivery of such Off-Spec Gas, the Buyer will, promptly following its receipt of notice of such refusal from the Physical Downstream Transporter, give notice to the Seller by telephone or in writing stating that it does not wish to take delivery of quantities of Natural Gas until the non-conformity with the Transportation Requirements has been remedied, and the Buyer shall not be in breach of any of its obligations by reason thereof. For the avoidance of doubt, the Buyer shall be obligated to take delivery of Off-Spec Gas if the Physical Downstream Transporter is willing to accept delivery of such Off-Spec Gas from the Buyer; provided, however, that in the event the Physical Downstream Transporter subsequently refuses to accept delivery of Off-Spec Gas it had previously agreed to accept from the Buyer or if Buyer is charged with any additional costs as a result of delivering the Off-Spec Gas to the Physical Downstream Transporter, then the Seller shall indemnify the Buyer in accordance with the terms of §8a.5 hereof. Any notice given pursuant to § 8a.3 by telephone shall be confirmed in writing as soon as reasonably practicable.

4. **Underdelivery due to Off-Spec Gas:** To the extent that the Delivered Quantity is less than the Contract Quantity in any Time Unit by reason of any of the circumstances described in or actions of the Parties taken in accordance with § 8a.3 (*Rights of the Buyer*), unless the Seller is relieved from liability under § 8.1 (*Underdelivery*) due to Force Majeure in accordance with § 7 (*Non-Performance due to Force Majeure*), this shall constitute an underdelivery due to Seller's Default and the provisions of § 8.1 (*Underdelivery*) shall apply in relation to the Default Quantity

5. **Indemnity:** If, in respect of an Individual Contract:

- (a) any quantities of Natural Gas are delivered at the Delivery Point without or prior to the Buyer becoming aware that such quantities constitute Off-Spec Gas, or
- (b) any quantities of Natural Gas are delivered to the Buyer when the Buyer serves a notice on the Seller in accordance with § 8a.3 and before the non-conformity has been remedied, or
- (c) Buyer is charged with additional costs pursuant to § 8a.3 (*Rights of the Buyer*) as a result of the delivery of Off-Spec Gas to the Physical Downstream Transporter;

then the Seller shall (irrespective of any event of Force Majeure affecting the Seller in relation to such Off-Spec Gas) indemnify the Buyer from and against all direct loss, damage and expense for which the Buyer is or becomes liable as a result of the delivery of such quantities of Off-Spec Gas, arising as a result of a claim by the Physical Downstream Transporter under its transportation agreement with the Buyer or with the relevant shipper transporting such quantities away from the Delivery Point. Unless

otherwise agreed in the terms of an Individual Contract, the Seller's aggregate liability to the Buyer under this § 8a.5 (*Indemnity*) or otherwise in respect of quantities of Off-Spec Gas delivered under an Individual Contract shall be unlimited.

6. **Payment for Off-Spec Gas:** Without prejudice to the foregoing provisions of this § 8a (*Off-Spec Gas*), the Buyer's obligation to pay for quantities of Natural Gas delivered pursuant to an Individual Contract, in accordance with § 13 (*Invoicing and Payment*), shall not be affected or diminished by the delivery of Off-Spec Gas.

§ 9

Suspension of Delivery or Acceptance

In addition to any other rights or remedies available to a Party (the "**Non-Defaulting Party**"), should a Party (the "**Defaulting Party**") default on any payment that is due under the Agreement, or should it or its Credit Support Provider fail to provide, replace or increase the amount of any Credit Support Document or any Performance Assurance as required pursuant to the Agreement, the Non-Defaulting Party shall be entitled, no earlier than three (3) Business Days after sending a written notice to the Defaulting Party immediately to cease further delivery or acceptance (as the case may be) of Natural Gas (and be released (and not merely suspended) from its underlying delivery or acceptance obligations) under all Individual Contracts and (provided that the Non-Defaulting Party has already exercised any rights available to it to set off its obligations to make payments under the Agreement to the Defaulting Party against amounts owed by the Defaulting Party to it) the Non-Defaulting Party shall have the right to withhold payments owed by it to the Defaulting Party under the Agreement in each case until such time as the Non-Defaulting Party, has received either the required Credit Support Document or Performance Assurance or full payment (including all applicable default interest and expenses) of all outstanding amounts owed to the Non-Defaulting Party.

§ 10

Term and Termination Rights

1. **Term:** This General Agreement shall come into force as of the Effective Date. It may be terminated in accordance with either § 10.2 (*Expiration Date and 30 Day Termination Notice*) or § 10.3 (*Termination for Material Reason*) through § 10.5 (*Definition of Material Reason*).

2. **Expiration Date and 30 Day Termination Notice:** This General Agreement will terminate on the Expiration Date (if one is specified in the Election Sheet) or if no Expiration Date has been specified in the Election Sheet, by a Party giving the other Party 30 days prior written notice of termination (in both cases "**Ordinary Termination**"). In the event of Ordinary Termination, the General Agreement shall remain legally binding on the Parties until, but only in respect of, all rights and obligations already created or existing under the Agreement prior to the date of the Ordinary Termination are fully performed by both Parties.

3. **Termination for Material Reason:**

- (a) If a Material Reason (as defined below) with respect to a Party has occurred and is continuing, the other Party (the "**Terminating Party**") may terminate the Agreement ("**Early Termination**") by giving the other Party notice. A notice of Early Termination may be given by telephone if that notice is confirmed in writing within two Business Days.
- (b) A notice of Early Termination shall specify the relevant Material Reason for the Early Termination and shall designate a day as an early termination date (the "**Early Termination Date**"). The Early Termination Date may not be earlier than the day the notice is deemed to have been received under the Agreement nor later than 20 days after such day. With effect from the Early Termination Date all further payments and performance in respect of all Individual Contracts shall be released (and not merely suspended) and existing duties and obligations of the Parties shall be replaced by the obligation of one Party to pay the Termination Amount to the other Party as calculated in accordance with § 11.1 (*Termination Amount*).
- (c) If notice designating an Early Termination Date is given, the Early Termination Date shall occur on the date so designated even if the applicable Material Reason is no longer continuing. On, or as soon as practicable after, the Early Termination Date, the Terminating Party shall

calculate in a commercially reasonable manner, and shall notify the other Party of, the Termination Amount (if any) to be received or paid by it by deriving the same from aggregating all Settlement Amounts as stipulated in § 11 (*Calculation of Termination Amount*).

- (d) The Termination Amount shall be payable by the relevant Party to the other Party within three (3) Business Days of its notification by the Terminating Party (a "**Due Date**").
- (e) The Terminating Party may take into account any Performance Assurance or credit support available pursuant to the Agreement or any Credit Support Document.
- (f) The right to designate an Early Termination Date under this §10.3 (*Termination for Material Reason*) is in addition to any other remedies available under the Agreement or at law.

4. Automatic Termination: If "**Automatic Termination**" is specified as applying to a Party in the Election Sheet, and upon the occurrence of a Material Reason described in § 10.5(c) (*Winding-up/Insolvency/Attachment*), the Terminating Party need not send that Party any notice of the designation of an Early Termination Date and the Early Termination Date in such event shall be as specified in the Election Sheet. Except as provided in this § 10.4 (*Automatic Termination*), Early Termination by virtue of operation of Automatic Termination shall be as provided in § 10.3 (*Termination for Material Reason*).

5. Definition of Material Reason: The Agreement may be terminated at any time for one or more of the following reasons (each, a "**Material Reason**"):

- (a) **Non-Performance:** The failure of a Party or its Credit Support Provider, when required, to make a payment, to deliver any Performance Assurance or to perform any other material obligation (other than when such obligation is released pursuant to § 7 (*Non-Performance Due to Force Majeure*)):
 - (i) under the Agreement; provided, that in the case of a failure to pay, such failure is not cured within two (2) Business Days of a written demand, or, in the case of any other failure of performance (not covered by sub-paragraphs (ii) or (iii) below), such failure is not cured within ten (10) Business Days of a written demand;
 - (ii) under any Credit Support Document (after giving effect to any applicable notice or grace period thereunder); or
 - (iii) in accordance with § 17 (*Performance Assurance*).
- (b) **Cross Default and Acceleration:**
 - (i) any default, event of default or other similar condition or event (however described) in respect of such Party, such Party's Credit Support Provider (if such Party has a Credit Support Provider) or such Party's Controlling Party (if such Party does not have a Credit Support Provider but has a Controlling Party) under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the Threshold Amount (as specified for that Party in the Election Sheet) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable, or
 - (ii) the default of a Party or its Credit Support Provider or Controlling Party (individually or collectively) to make one or more payments on the due date thereof in an aggregate amount of not less than the Threshold Amount (as specified for that Party in the Election sheet) under one or more agreements or instruments relating to Specified Indebtedness (after giving effect to any applicable notice requirement or grace period).
- (c) **Winding-up/Insolvency/Attachment:** A Party or its Credit Support Provider:
 - (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
 - (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;

- (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
 - (iv) institutes or has instituted against it a proceeding seeking a judgement of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation and, if specified in the Election Sheet, is not withdrawn, dismissed, discharged, stayed or restrained within such period as specified in the Election Sheet;
 - (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
 - (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
 - (vii) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets;
 - (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in § 10.5(c)(i) to § 10.5(c)(vii) (inclusive); or
 - (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts referred to in this § 10.5(c).
- (d) **Failure to Deliver or Accept:** If specified as applying in the Election Sheet, the failure of a Party to comply with its obligation to deliver or accept Natural Gas under an Individual Contract, (other than, when such obligation is released pursuant to § 7 (*Non-Performance due to Force Majeure*)) for more than seven consecutive days or for more than seven (7) days in aggregate within a period of sixty (60) days.
- (e) **Representation or Warranty:** A representation or warranty when made or repeated or deemed to have been made or repeated by a Party to this General Agreement or an Individual Contract or by its Credit Support Provider in a Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated.

Unless otherwise specified in the Election Sheet, the above Material Reasons shall constitute the exclusive reasons for Early Termination under this § 10 (*Term and Termination Rights*).

§ 11

Calculation of the Termination Amount

1. Termination Amount: The Terminating Party shall calculate an amount (the "**Termination Amount**") to be paid in accordance with § 10.3 (*Termination for Material Reasons*) and § 10.4 (*Automatic Termination*) by calculating the sum (whether positive or negative) of all Settlement Amounts for all Individual Contracts and taking account of any or all other amounts payable between the Parties under or in connection with the Agreement. If the Termination Amount is negative, an amount equal to the absolute value of the Termination Amount shall be payable to the Terminating Party by the other Party. If the Termination Amount is positive, an amount equal to the Termination Amount shall be payable by the Terminating Party to the other Party.

2. Settlement Amount: The "**Settlement Amount**" for an Individual Contract shall be the Gains less the aggregate of the Losses and Costs which the Terminating Party incurs as a result of the termination of the Individual Contract. For the purpose of this provision:

- (a) "**Costs**" means brokerage fees, commissions and other third party costs and expenses reasonably incurred by the Terminating Party either in terminating any arrangement pursuant to which it has hedged its obligation or entering into new arrangements which replace a

terminated Individual Contract and all reasonable legal fees, costs and expenses incurred by the Terminating Party in connection with its termination of such Individual Contract;

- (b) "**Gains**" means an amount equal to the present value of the economic benefit to the Terminating Party, if any (exclusive of Costs), resulting from the termination of an Individual Contract, determined in a commercially reasonable manner; and
- (c) "**Losses**" means an amount equal to the present value of the economic loss to the Terminating Party, if any (exclusive of Costs), resulting from its termination of an Individual Contract, determined in a commercially reasonable manner.

In calculating the Settlement Amounts, the Terminating Party may, but is not obliged, to calculate its Gains and Losses as at the Early Termination Date, at its discretion, without entering into any replacement transactions.

§ 12

Limitation of Liability

1. **Application of Limitation:** This § 12 (*Limitation of Liability*) will apply unless otherwise specified by the Parties in the Election Sheet.

2. **Exclusion of Liability:** Subject to § 12.3 (*Consequential Damage and Limitation of Liability*) and § 12.4 (*Intentional Default, Fraud and Other Mandatory Rules*) and except in respect of any amounts payable under § 6.3 (*Transfer of Rights to Natural Gas*), § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*), § 8a (*Off-Spec Gas*), § 10.3 (*Termination for Material Reason*), §10.4 (*Automatic Termination*), § 13 (*Invoicing and Payment*) and § 14 (*VAT and Taxes*), a Party and its employees, officers, contractors and/or agents, shall not be liable to the other Party for any loss, cost, expense or damages ("**Damages**"), incurred by the other Party under or in connection with the Agreement, except where such Damages are due to the negligence, intentional default or fraud of a Party or its employees, officers, contractors and/or agents used by such Party in performing its obligations under the Agreement.

3. **Consequential Damage and Limitation of Liability:** Subject to § 12.4 (*Intentional Default, Fraud and Other Mandatory Rules*), the liability of each Party to the other Party under or in connection with this Agreement:

- (a) shall (except as provided in § 6.3 (*Transfer of Rights to Natural Gas*), § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*), § 8a (*Off-Spec Gas*), § 10.3 (*Termination for Material Reason*), § 10.4 (*Automatic Termination*), § 13 (*Invoicing and Payment*) and § 14 (*VAT and Taxes*)) exclude liability for loss of profit, goodwill, business opportunity or anticipated saving and for indirect or consequential Damages (and the above categories of loss shall be considered independently and the *cuiusdem generis* rule of construction under English law shall not apply); and
- (b) shall be limited to an aggregate amount equal to the aggregate amounts payable for Natural Gas supplied or to be supplied by a Party under any relevant Individual Contract provided that such limitation shall not apply to payments due in accordance with § 6.3 (*Transfer of Rights to Natural Gas*), § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*), § 8a (*Off-Spec Gas*), § 10.3 (*Termination for Material Reason*) § 13 (*Invoicing and Payment*) or § 14 (*VAT and Taxes*)).

4. **Intentional Default, Fraud and other Mandatory Rules:** Nothing in the Agreement operates to exclude or limit a Party's liability for:

- (a) intentional default;
- (b) fraud; or
- (c) personal injury or death resulting from the negligence of such Party or any of its officers or employees.

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5. **Duty to Mitigate Losses:** For the avoidance of doubt, and subject to applicable law, each Party agrees that it has a duty to mitigate its Damages and covenants that it will use commercially reasonable efforts to minimise any Damages it may incur under or in connection with the Agreement.

§ 13

Invoicing and Payment

1. **Invoice:** Each Party who is a Seller of Natural Gas in an Individual Contract shall transmit to the other Party in the course of the calendar month following delivery of Natural Gas under Individual Contract(s) for the previous month an invoice setting forth the total quantities of Natural Gas that were sold by it under each Individual Contract in the previous calendar month. In connection with such invoice the Party shall state all amounts then owed between the Parties pursuant to each Individual Contract for which it is the Seller including, without limitation, all amounts owed for the purchase and sale of Natural Gas, fees, charges, reimbursements, damages, interest, and other payments or credits owed between the Parties (including, without limitation, under § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*), § 8a (*Off-Spec Gas*) and § 14 (*VAT and Taxes*)) and the net amount due for payment in respect of each Individual Contract. Invoicing of Premiums due under an Individual Contract for Options shall be as agreed by the Parties in the Individual Contracts.

2. **Payment:** On or before the later to occur of (a) the twentieth (20th) day of the calendar month or if not a Business Day the immediately following Business Day; or (b) the tenth (10th) day following receipt of an invoice (whichever being the "Due Date"), a Party owing an invoiced amount shall pay, by wire transfer in freely available funds, the amount set forth on such invoice to the payment address or bank account provided by the other Party as specified in the Election Sheet. Such payment shall be made, unless otherwise agreed, in EURO, and subject to § 14 (*VAT and Taxes*) and the remitter shall pay its own bank charges. Notwithstanding the foregoing, the Due Date for payment of a Premium under an Individual Contract for Options shall be the Premium Payment Date applicable to the Individual Contract.

3. **Payment Netting:** If this § 13.3 (*Payment Netting*) is specified as applying in the Election Sheet, if on any day the Parties are each required to pay one or more amounts in the same currency (for which purpose all EURO currencies shall be considered a single currency) under one or more Individual Contracts then such amounts with respect to each Party shall be aggregated and the Parties shall discharge their respective payment obligations through netting, in which case the Party, if any, owing the greater aggregate amount shall pay the other Party the difference between the aggregate amounts owed.

4. **Invoicing and Payment of Scheduled Contract Quantities:** Invoicing and payment shall (so far as available at the time of invoicing) be based on the Delivered Quantities in respect of Individual Contracts for all Time Units of the respective month; provided, however, that, subject to § 4.1(b) (*Delivery and Acceptance and Net Scheduling Obligations*), with respect to Time Units for which there was more than one Individual Contract between the Parties for delivery of Natural Gas at the same Delivery Point, invoicing and payment shall be based on the Delivered Quantity plus any Quantity of Natural Gas which was sold by the Seller to the Buyer but was not Scheduled because it was the subject of net Scheduling or because there was no requirement to Schedule pursuant to § 4.1 (*Delivery and Acceptance and Net Scheduling Obligations*). However, to the extent such data is not available to the Seller at the time of invoicing, the Seller's invoice shall be based on Contract Quantities for Individual Contracts for such Time Units. When and if data becomes available confirming the Delivered Quantities in respect of Individual Contracts for such Time Units and the discrepancies between Delivered Quantities and Contract Quantities, invoicing and payment will be adjusted to reflect any discrepancies between the Contract Quantities and Delivered Quantities including any payment (or adjustments to payments) due under § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*).

5. **Default Interest:** Late payments shall accrue interest from, and including, the Due Date to, but excluding, the date of payment, at the Interest Rate. For this purpose the "Interest Rate" shall be the rate of interest specified in the Election Sheet.

6. **Disputed Amounts:** If a Party, in good faith, disputes the accuracy of an invoice, it shall on or before the Due Date provide a written explanation of the basis for the dispute and shall pay:



- (a) if this § 13.6(a) is specified as applying in the Election Sheet, the full amount invoiced no later than the Due Date. If any amount paid under dispute is finally determined to have not been due, such overpayment shall, at the election of the owed Party, be credited or returned to it within ten (10) days of such determination, along with interest accrued at the Interest Rate from, and including, the date such amount was paid, to the other Party, but excluding, the date returned or credited; or
- (b) if this § 13.6(b) is specified as applying in the Election Sheet, the undisputed amount invoiced no later than the Due Date. If any amount withheld under dispute is finally determined to have been due, such withheld amount shall, at the election of the owed Party, be credited or returned to it within ten (10) days of such determination, along with interest accrued at the Interest Rate from, and including, the date such amount was due, to the other Party, but excluding, the date paid or credited.

7. Invoices Based on Contract Quantities: For the avoidance of doubt, it is acknowledged that each invoice shall be based on the Contract Quantities agreed by the Parties pursuant to each Individual Contract and not the Net Contract Quantities which are used pursuant to § 4.1(b), to calculate the net Quantities to be Scheduled, made available and offtaken by the Parties pursuant to § 4.1 (*Delivery and Acceptance and Net Scheduling Obligations*) after aggregating all Individual Contracts between the Parties for the relevant Time Unit at the same Delivery Point. It is further acknowledged that, subject to § 4.1(b), to the extent there is Buyer's Default by the Net Buyer under § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*) in circumstances where there is more than one Individual Contract between the Parties for a Time Unit at the same Delivery Point then the Default Quantity for the relevant Time Unit shall be allocated on a pro rata basis to those Individual Contracts under which the Net Buyer is the Buyer (such allocation to be calculated by the Net Seller) and to the extent there is a Seller's Default by the Net Seller under § 8 (*Remedies for Failure to Deliver or Accept the Contract Quantity*), then the Default Quantity shall be allocated on a pro rata basis to those Individual Contracts under which the Net Seller is the Seller (such allocation shall be calculated by the Net Buyer).

§ 14

VAT and Taxes

1. VAT: All amounts referred to in this General Agreement are exclusive of VAT. The VAT treatment of the supply of Natural Gas under an Individual Contract shall be determined pursuant to the VAT laws of the jurisdiction where a taxable transaction for VAT purposes is deemed to take place. If VAT is payable on any such amounts, the Buyer shall pay to the Seller an amount equal to the VAT at the rate applicable from time to time; provided that such amount shall only be required to be paid once the Seller provides the Buyer with a valid VAT invoice (applicable in the jurisdiction of supply) in relation to that amount.

Where, in accordance with EU and/or national legislation, any supplies under an Individual Contract may be Zero-Rated and/or subject to the reverse charge in accordance with Articles 38, 39 or 195 of Council Directive 2006/112/EC, the following shall apply:

- (a) the Buyer and the Seller hereby covenant that they will do all such proper acts, deeds and things as are necessary (which may include and shall not be limited to providing to the Seller all such proper, true and accurate documentation or assistance as may reasonably be required by the relevant taxing authority) to ensure that such supply is Zero-Rated or subject to the reverse charge for the purposes of such legislation;
- (b) in the event that the Buyer or the Seller fails to comply with such obligation, the non-complying Party shall indemnify the other Party in respect of any and all VAT, penalties and interest incurred by the other Party as a result of the non-complying Party's failure to comply with the above covenant; and
- (c) in the absence of the Buyer providing any documentation as referred to in (a) above, the Seller reserves the right to charge local VAT.

2. Other Taxes: All amounts referred to in this General Agreement are exclusive of Other Taxes. In the case of Other Taxes, if the cost of an Other Tax is charged or passed on by the Seller to the Buyer, the Buyer

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shall pay this amount of Other Tax to the Seller; provided that such amount of Other Tax is identified separately on the invoice issued by the Seller and confirmation is received by the Buyer, where applicable, that such amount of Other Tax has been duly paid or accounted for to the relevant Tax authority, as appropriate.

Where in accordance with EU and/or national legislation there is an exemption or other relief, as applicable, from Other Taxes in respect of any supplies under an Individual Contract, the following shall apply:

- (a) the Buyer and the Seller hereby covenant that they will do all such proper acts, deeds and things as are necessary (which may include and shall not be limited to providing to the Seller all such proper, true and accurate documentation or assistance as may reasonably be required by the relevant taxing authority) to ensure that such supply is exempt from Other Taxes for the purposes of such legislation;
- (b) in the event that the Buyer or the Seller fails to comply with such obligation, the non-complying Party shall indemnify the other Party in respect of any and all Other Taxes, penalties and interest incurred by the other Party as a result of the non-complying Party's failure to comply with the above covenant; and
- (c) in the absence of the Buyer providing any documentation as referred to in (a) above the Seller reserves the right to charge Other Taxes.

3. Seller's and Buyer's Tax Obligation: The Seller shall pay or cause to be paid all Tax on or with respect to Natural Gas delivered pursuant to an Individual Contract arising before the transfer of risk and title at the Delivery Point. The Buyer shall pay or cause to be paid all Tax on or with respect to the Natural Gas delivered pursuant to an Individual Contract arising after the transfer of risk and title at the Delivery Point. Subject to §14.2 the Parties shall pay all Tax arising at the transfer of risk and title at the Delivery Point in accordance with applicable local laws. In the event that the Seller is required by law to pay any Tax which is properly for the account of the Buyer, the Buyer shall promptly indemnify or reimburse the Seller in respect of such Tax. In the event that the Buyer is required by law to pay any Tax which is properly for the account of the Seller, the Buyer may deduct the amount of any such Tax from the sums due to the Seller under the Agreement and the Seller shall promptly indemnify or reimburse the Buyer in respect of any such Tax not so deducted.

4. Taxes Targeted at End-Users: The Buyer covenants to the Seller that, for the purposes of a Tax which is targeted at the end-user, burner or consumer of Natural Gas, either:

- (a) it will not be an end-user, burner or consumer of such Natural Gas delivered to it under any Individual Contract, or
- (b) that the Buyer has the status of an intermediary or any equivalent status as defined in any applicable legislation, or
- (c) that the Natural Gas so delivered will either be transported out of the jurisdiction in which the Delivery Point is situated under such Individual Contract or will be re-sold within such jurisdiction,

and the Buyer will provide such documentation as may be required by applicable legislation to evidence any of the foregoing.

5. Exemption Certificates: If, however, the Buyer intends to burn or otherwise consume any of the Natural Gas delivered under an Individual Contract, the Buyer shall provide to the Seller, if required under the applicable legislation, a Valid Certificate evidencing the exemption of the Buyer's relevant facility from the Tax which is targeted at the end-user, burner or consumer of Natural Gas, in respect of its energy supply to the reasonable satisfaction of the Seller. If such a Valid Certificate, which is required by any applicable legislation, is not provided and/or the Seller is not so satisfied by the relevant time of invoicing and the Seller is liable to pay the Tax targeted at the end-user, burner or consumer of Natural Gas, the Seller shall charge the Buyer and the Buyer shall pay to the Seller in addition to the Contract Price an amount equal to the Tax which is applicable to the end-user, burner or consumer of Natural Gas on the Natural Gas delivered under such Individual Contract, at the rate applicable at the time of the sale. If the Buyer, subsequent to the Seller charging such Tax, provides the Seller within the applicable time (if any) with a Valid Certificate, the Seller shall reimburse the Buyer for any such Taxes paid by the Buyer, provided the Seller has reclaimed such Tax.

6. **Indemnity:** In the event that, in respect of an Individual Contract, a Party is in breach of its obligations under § 14.4 (*Taxes Targeted at End-Users*) or § 14.5 (*Exemption Certificates*), it shall indemnify and hold harmless the other Party against any liability for Tax which is targeted at the end-user, burner or consumer of Natural Gas (and any associated charges or penalties) in respect of Natural Gas delivered under such Individual Contract.

7. **New Taxes:** If any New Tax is applicable to an Individual Contract, and the Buyer is, by the use of reasonable endeavours, able to obtain any available exemption or relief therefrom or is contractually able to pass the same through to or be reimbursed in respect thereof by, a third party, the Buyer shall pay or cause to be paid, or reimburse the Seller if the Seller has paid, such New Tax, and the Buyer shall indemnify, defend and hold harmless the Seller from and against any claims for such New Tax.

8. **Termination for New Tax:** Unless otherwise specified in the Election Sheet or in the terms of an Individual Contract, the provisions of this § 14.8 shall only apply in respect of an Individual Contract if the period from the date on which the Parties concluded such Individual Contract pursuant to § 3.1 (*Conclusion of Individual Contracts*) to the end of the Total Supply Period exceeds two years.

Where the provisions of this § 14.8 apply in respect of an Individual Contract and:

- (a) a New Tax is imposed on a Party (the "**Taxed Party**") in respect of the Contract Quantity; and
- (b) having used reasonable endeavours to do so, the Taxed Party is unable contractually to pass on the cost of the New Tax to the other Party or a third party; and
- (c) the total amount of the New Tax that would be payable in respect of the balance of the total amount of Natural Gas to be delivered during the remainder of the Total Supply Period (the "**Remaining Contract Quantity**"), unless otherwise specified in the Election Sheet, shall exceed five percent (5%) of the product of the Remaining Contract Quantity and the Contract Price

then, the Taxed Party shall be entitled to terminate the Individual Contract subject to the following conditions:

- (a) the Taxed Party must give the other Party (the "**Non-Taxed Party**") at least five (5) Business Days' prior written notice (the "**Negotiation Period**") of its intent to terminate the Individual Contract (and which notice shall be given no later than 180 Days after the later of the enactment or the effective date of the relevant New Tax), and prior to the proposed termination the Taxed Party and the Non-Taxed Party shall attempt to reach an agreement as to the sharing of the New Tax;
- (b) if such agreement is not reached, the Non-Taxed Party shall have the right, but not the obligation, upon written notice to the Taxed Party within the Negotiation Period, to pay the New Tax for any continuous period it so elects on a calendar month to calendar month basis, and in such case the Taxed Party shall not have the right during such continuous period to terminate the Individual Contract on the basis of the New Tax;
- (c) should the Non-Taxed Party elect to pay the New Tax on a calendar month to calendar month basis, the Non-Taxed Party may elect to cease the payment of the New Tax upon giving five (5) Business Days' prior written notice to the Taxed Party of its election to cease payment of such New Tax, in which case the Non-Taxed Party shall indemnify the Taxed Party for the New Tax and related interest and penalties that may be incurred by the Taxed Party in respect of the period during which the Non-Taxed Party had elected to pay the New Tax and the Taxed Party shall again be subject to the provisions of this § 14.8 as if the New Tax had an effective date as of the date on which the Non-Taxed Party ceased payment of such New Tax;
- (d) if agreement as to sharing a New Tax is not reached and the Non-Taxed Party does not elect to pay the New Tax for any period of time within the Negotiation Period, the Individual Contract affected shall be terminated on the expiry of the Negotiation Period;
- (e) upon termination of the Individual Contract, the provisions of § 11 (*Calculation of the Termination Amount*) relating to the calculation and payment of the Termination Amount

shall apply but only in respect of the Individual Contract(s) so terminated, and for these purposes:

- (i) the Non-Taxed Party shall be understood to be the Terminating Party for the calculation of the Termination Amount; and
- (ii) the effect (if any) of the relevant New Tax on the calculation of the Termination Amount (or any Settlement Amount) shall be expressly excluded

9. Withholding Tax: If this § 14.9 is specified as applying in the Election Sheet, the following shall apply between the Parties:

- (a) **Payments Free and Clear:** All payments under an Individual Contract shall be made without any withholding of or deduction for or on account of any Tax unless such withholding or deduction is required by law. If a Party is so required to withhold or deduct Tax from a payment to be made by it, then that Party ("**Paying Party**") shall notify the other Party ("**Receiving Party**") immediately of such requirement and pay to the appropriate authorities all amounts withheld or deducted by it. If a receipt or other evidence can be issued evidencing the payment to the authorities, the Paying Party shall deliver such evidence (or a certified copy thereof) to the Receiving Party.
- (b) **Grossing-Up:** The Paying Party shall increase the amount of any payment which is required to be made subject to a withholding or deduction to the extent necessary to ensure that, after the making of the required withholding or deduction, the Receiving Party receives the same amount it would have received had no such withholding or deduction been made or required to be made, except that no increase shall be made in respect of any Tax:
 - (i) which is only imposed as a result of a connection between the Receiving Party and the jurisdiction of the authority imposing the Tax (including, without limitation, a connection arising from the Receiving Party having or having had a permanent establishment or other fixed place of business in that jurisdiction, or having been present or engaged in business in that jurisdiction) other than the mere execution or delivery of this General Agreement, any Confirmation or any Credit Support Document; or
 - (ii) which could have been avoided if the Receiving Party had delivered to the Paying Party or to the appropriate authority as reasonably requested by the Paying Party, any declaration, certificate, or other documents specified in the Election Sheet in a form reasonably satisfactory to the Paying Party; or
 - (iii) which is only imposed as a result of any Tax representation made by the Receiving Party in the Election Sheet for the purposes of this § 14.9, failing or ceasing to be true and accurate provided that this paragraph (iii) shall not apply (and the Paying Party shall be obliged to increase the amount of any payment pursuant to this § 14.9(b)) if such representation has failed or ceased to be true and accurate by reason of:
 - (aa) any change in, or in the application or interpretation, of any relevant law, enactment, directive, or published practice of any relevant Tax authority being a change occurring on or after the date on which the relevant Individual Contract is entered; or
 - (bb) any action taken by a Tax authority, or brought in a court of competent jurisdiction, on or after the date on which the relevant Individual Contract is entered into.

§ 15

Floating Prices and Fallback Procedure for Market Disruption

1. Calculation of Floating Contract Prices: In the event the Contract Price is based on an index, exchange or any other kind of variable reference price (such price being a "**Floating Price**") the Contract Price

shall be determined on the Settlement Date at the Settlement Price as specified in the applicable Individual Contract. The Settlement Price shall be determined in accordance with the Calculation Method on the Calculation Date as specified in the Individual Contract. The Calculation Date is the date specified as such in the Individual Contract on which the Settlement Price for the specific delivery is determined. The Calculation Agent shall provide prompt notice of the Settlement Price determined as well as the amount to be paid on the Due Date. Payment shall be made pursuant to § 13 (*Invoicing and Payment*).

2. Market Disruption: Upon the occurrence of a Market Disruption Event as specified in § 15.4 (*Definition of Market Disruption Event*), the Calculation Agent shall determine an alternative price to which the relevant Individual Contract shall be settled (the "**Alternative Settlement Price**") according to the applicable Fallback Mechanism contained in the provisions of § 15.3 (*Fallback Mechanism*). In the event of a Market Disruption Event, the order of succession of § 15.3 (*Fallback Mechanism*) from (a) to (c) shall be binding upon the Calculation Agent. The Calculation Agent can only use the next following Fallback Mechanism provision if the previous Fallback Mechanism provision is not available due to a Market Disruption Event or otherwise as provided in § 15.3 (*Fallback Mechanism*), as applicable.

3. Fallback Mechanism: In the event of a Market Disruption Event the Calculation Agent shall determine the Alternative Settlement Price according to the following procedure (each a "**Fallback Mechanism**"):

- (a) **Fallback Reference Price:** The Calculation Agent shall determine the Alternative Settlement Price which shall be the price for that Calculation Date of the first Alternate Commodity Reference Price (if any, specified in the applicable Individual Contract), which is not itself subject to a Market Disruption Event; if an Alternate Commodity Reference Price has not been agreed on in the Individual Contract, the next applicable Fallback Mechanism shall apply for the relevant Individual Contract.
- (b) **Negotiated Fallback:** Each Party shall promptly negotiate in good faith to agree with the other on an Alternative Settlement Price (or a method for determining the Alternative Settlement Price), and, if the Parties have not so agreed on or before the fifth Business Day following the first Calculation Date on which the Market Disruption Event existed, the next applicable Fallback Mechanism shall apply.
- (c) **Dealer Fallback:** On or after six Business Days following the first Calculation Date on which the Market Disruption Event occurred or existed, the Parties shall promptly and jointly agree upon three independent leading participants in the relevant market ("**Dealers**") selected in good faith from among participants of the highest credit standing which satisfy all the criteria that the Parties apply generally in deciding whether to offer or to make an extension of credit or to enter into a transaction comparable to the Individual Contract that is affected by the Market Disruption Event. The Dealers shall be appointed to make a determination of the Alternative Settlement Price taking into consideration the latest available quotation for the relevant commodity reference price and any other information that in good faith is deemed relevant. The Alternative Settlement Price shall be the arithmetic mean of the three amounts determined to be the Alternative Settlement Price by each Dealer, in which case the calculation shall be binding and conclusive in the absence of manifest error.

4. Definition of Market Disruption Event: "**Market Disruption Event**" under this § 15 (*Floating Prices and Fallback Procedure for Market Disruption*) shall mean the events stipulated under § 15.4(a) through § 15.4(f) (the existence of which shall be determined in a commercially reasonable manner by the Calculation Agent). For purposes of this § 15.4 (*Definition of Market Disruption Event*), "**Price Source**" shall mean any institution determining and publishing the price for a relevant commodity (a "**Commodity Reference Price**") including exchanges trading in any relevant future contracts or commodities on which the Floating Price is based:

- (a) the failure of any relevant Price Source to announce or publish information necessary for determining the Commodity Reference Price;
- (b) the temporary or permanent objective unavailability of any relevant Commodity Reference Price;
- (c) a temporary or permanent closing of the Price Source of any relevant Commodity Reference Price;

- (d) the discontinuance or suspension of, or the imposition of a material limitation on, trading in any relevant futures contract or commodity offered by the relevant exchange for the Commodity Reference Price;
- (e) the occurrence since the date such Individual Contract was entered into of a material change in the details of the composition of or specifications for any relevant commodity or Commodity Reference Price (i) which are entered into or incorporated in any relevant futures contract or offered by the relevant exchange or (ii) which are used by any other relevant institution for determining the Commodity Reference Price in compiling the price information necessary for determining such Floating Price; or
- (f) the occurrence since the commencement of the relevant Individual Contract of a material change in the method of calculation used for any relevant Commodity Reference Price to determine the price information necessary for determining such floating price.

5. **Calculation Agent:** Unless the Parties otherwise specify in the Election Sheet or in the relevant Individual Contract, the Seller shall be the Calculation Agent.

§ 16

Guarantees and Credit Support

To address each Party's risk relating to the creditworthiness of the other Party, and to secure the prompt fulfilment of all obligations resulting from this General Agreement and Individual Contracts, the Parties may agree, on or at any time after the Effective Date, or at the time of the concluding of each Individual Contract, upon the circumstances in which Credit Support Documents may be required to be provided for the benefit of a Party, including, the form of Credit Support Documents, the amount of credit support, and the identity of one or more acceptable Credit Support Providers.

§ 17

Performance Assurance

1. **Right to Require Performance Assurance:** At any time and from time to time, when a Party (the "**Requesting Party**") believes in good faith that a Material Adverse Change has occurred in respect of the other Party, the Requesting Party shall be entitled to require, by written notice, that the other Party provide to it or increase in amount: (a) a Letter of Credit; (b) cash; or (c) other security (including a bank or parent guarantee), in a form, amount and from an entity which is reasonably acceptable to the Requesting Party (each a "**Performance Assurance**"). Upon receipt of such written notice, the other Party shall within three Business Days provide to the Requesting Party the Performance Assurance required. For the avoidance of doubt, in the event that an entity providing Performance Assurance on behalf of a Party does not thereafter continue to be reasonably acceptable to the Requesting Party, the Requesting Party shall have the right to require the other Party to provide to it additional Performance Assurance in accordance herewith.

2. **Material Adverse Change:** A Material Adverse Change shall have occurred if any one or more of following events has occurred and is continuing in so far as such event is specified as applying to a Party in the Election Sheet:

- (a) **Credit Rating:** If the Credit Rating of an Entity listed in (i) to (iii), each such Entity being a "**Relevant Entity**" of such Party, is withdrawn or downgraded below the rating set out for such Party in the Election Sheet:
 - (i) the other Party (unless all of that other Party's financial obligations under the Agreement are fully guaranteed or assured under a Credit Support Document);
 - (ii) the other Party's Credit Support Provider or provider of Performance Assurance (other than a bank); or
 - (iii) any Entity who is a party to a control and/or profit transfer agreement (Beherrschungs-Gewinnabführungsvertrag) within the meaning of the German Stock Corporation Act (Aktiengesetz; AktG) (a "**Control and Profit Transfer Agreement**") with the other Party and such other Party is in relation to such Entity, its subsidiary over which such Entity has control (a "**Controlling Party**"); or

- (b) **Credit Rating of a Credit Support Provider or Provider of Performance Assurance That is a Bank:** If the Credit Rating of a bank serving as the other Party's Credit Support Provider or provider of Performance Assurance is withdrawn or downgraded below the Credit Rating set out in the Election Sheet.
- (c) **Financial Covenants:** In so far as a Relevant Entity does not have a Credit Rating, if such Relevant Entity does not fulfil any of the following financial requirements as determined by reference to its most recent financial statement:
- (i) **EBIT to Interest:** The ratio of EBIT to the sum of all interest and any amounts in the nature of interest charged to expense relating to financial indebtedness for borrowed money (which includes debts payable to Affiliates as well as debt instruments to financial institutions) for such Relevant Entity in any fiscal year is greater than the ratio specified in the Election Sheet.
 - (ii) **Funds from Operations:** The ratio of Funds from Operations to Total Debt for such Relevant Entity in any fiscal year is greater than the ratio specified in the Election Sheet.
 - (iii) **Total Debt to Total Capitalisation:** The ratio of Total Debt to Total Capitalisation for such Relevant Entity in any fiscal year is less than the ratio specified in the Election Sheet.
- (d) **Decline in Tangible Net Worth:** If the Tangible Net Worth of a Relevant Entity falls below the amount specified in the Election Sheet.
- (e) **Expiry of Performance Assurance or Credit Support Document:** If any Performance Assurance or any Credit Support Document expires or terminates with respect to any outstanding obligations of the other Party under the Agreement, or, if a Performance Assurance or Credit Support Document is due to expire or terminate within the period of time, if any, specified in the Election Sheet, or the failing or ceasing of such Credit Support Document or Performance Assurance to be in full force or effect for the purpose of the Agreement (in each case other than in accordance with its terms or the terms of the Agreement) before the satisfaction of all outstanding obligations of such other Party under the Agreement to which such Credit Support Document or Performance Assurance relates, without the written consent of the Requesting Party.
- (f) **Failure of Performance Assurance or Credit Support Document:** If any Credit Support Provider or provider of Performance Assurance of the other Party disaffirms, disclaims, revokes, repudiates or rejects in whole or in part, or challenges the validity of, any Credit Support Document or Performance Assurance provided by it or otherwise fails to comply with or perform its obligations under or in respect of such Credit Support Document or Performance Assurance and such failure is continuing after any applicable grace or cure period.
- (g) **Failure of Control and Profit Transfer Agreement:** If any Controlling Party of the other Party disaffirms, disclaims, revokes, repudiates or rejects in whole or in part, or challenges the validity of any Control and Profit Transfer Agreement entered into by it or otherwise fails to comply with or perform its obligations under such Control and Profit Transfer Agreement.
- (h) **Impaired Ability to Perform:** If in the reasonable and good faith opinion of the Requesting Party, the ability of the Relevant Entity to perform its obligations under the Agreement, any Credit Support Document or any Control and Profit Transfer Agreement, as the case may be, is materially impaired.
- (i) **Amalgamation/Merger:** If the other Party or its Credit Support Provider undergoes a change of control, consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, or reorganises, incorporates, reincorporates, or reconstitutes into or as, another Entity, or another Entity transfers all or substantially all its assets to, or reorganises, incorporates, reincorporates, or reconstitutes into or as, such other Party or its Credit Support Provider and:
- (i) the creditworthiness of such Party, its Credit Support Provider or the resulting, surviving, transferee or successor Entity is materially weaker than that of the other

Party or such Credit Support Provider, as the case may be, immediately prior to such action;

- (ii) the resulting, surviving, transferee or successor Entity fails to assume all the obligations of that other Party or such Credit Support Provider under the Agreement or any Credit Support Document to which it or its predecessor was a party either by operation of law or pursuant to an agreement reasonably satisfactory to the Requesting Party; or
- (iii) the benefits of any Credit Support Document cease or fail to extend (without the consent of the Requesting Party) to the performance by such resulting, surviving, transferee or successor Entity of its obligations under the Agreement.

§ 18

Provision of Financial Statements and Tangible Net Worth

1. **Provision of Financial Statements:** Unless otherwise specified in the Election Sheet, if requested by a party, the other Party shall deliver:

- (a) within 120 days following the end of each fiscal year, a copy of such other Party's, or for such period the other Party's obligation are supported by a Credit Support Provider or if it is a party to a Control and Profit Transfer Agreement, its Credit Support Provider's or its Controlling Party's, as the case may be, annual report containing audited consolidated financial statements for such fiscal year; and
- (b) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of its quarterly report containing unaudited consolidated financial statements.

2. **Decline in Tangible Net Worth:** If this § 18.2 is specified as applying in the Election Sheet, as soon as it becomes aware of such decline, each Party shall promptly notify the other Party of the occurrence of a decline in its Tangible Net Worth or the Tangible Net Worth of its Credit Support Provider or Controlling Party, to a level below the amount specified in the Election Sheet.

3. **Accounting Principles:** In all cases the financial statements referred to in this § 18 (*Provision of Financial Statements and Tangible Net Worth*) shall be prepared in accordance with generally accepted accounting principles in the relevant jurisdiction.

§ 19

Assignment

1. **Prohibition:** Neither Party shall be entitled to assign its rights and/or transfer its obligations under the Agreement to a third party without the prior written consent of the other Party. Such consent shall not be unreasonably delayed, refused or withheld.

2. **Assignment to Affiliates:** If this § 19.2 is specified as applying in the Election Sheet, each Party shall be entitled to assign and transfer the Agreement without the prior written consent of the other Party to an Affiliate of an equivalent or greater creditworthiness, provided that such Affiliate is incorporated in the same jurisdiction as the assigning and transferring Party. Such assignment and transfer shall only become effective upon notice being received by the other Party and provided that any Credit Support Document issued or agreed on behalf of the assigning and transferring Party has first been reissued or amended to support the obligations of the Affiliate for the benefit of the other Party.

§ 20

Confidentiality

1. **Confidentiality Obligation:** Unless this § 20 (*Confidentiality*) is specified as not applying in the Election Sheet, and subject to § 20.2 (*Exclusions from Confidential Information*), neither Party shall disclose the terms of an Individual Contract ("**Confidential Information**") to a third party.

2. **Exclusions from Confidential Information:** Confidential Information shall not include information which:

- (a) is disclosed with the other Party's prior written consent;
- (b) is disclosed by a Party to a Network Operator, its directors, employees, Affiliates, agents, professional advisers, bank or other financing institution, rating agency or intended assignee;
- (c) is disclosed to comply with any applicable law, regulation, or rule of any exchange, Network Operator or regulatory body, or in connection with any court or regulatory proceeding; provided that each Party shall, to the extent practicable and permissible under such law, regulation, or rule, use reasonable efforts to prevent or limit the disclosure and to give the other Party prompt notice of it;
- (d) is in or lawfully comes into the public domain other than by a breach of this § 20 (*Confidentiality*); or
- (e) is disclosed to price reporting agencies or for the calculation of an index provided that such disclosure shall not include the identity of the other Party.

3. **Expiration:** A Party's obligation in respect of an Individual Contract under this § 20 (*Confidentiality*) shall expire one year after the expiration of such Individual Contract.

§ 21

Representations and Warranties

If specified as applying to a Party in the Election Sheet, that Party hereby represents and warrants to the other Party upon entering into this General Agreement and each time it enters into an Individual Contract as follows:

- (a) it is an Entity duly organised, validly existing and in good standing under the laws of its jurisdiction of incorporation or organisation;
- (b) the signing and the entering by it into of the General Agreement, any Credit Support Document to which it is a party and each Individual Contract and the carrying out of the transactions contemplated therein, shall not violate any provision of its constitutional documents;
- (c) it has the power and is authorised to execute, deliver and perform its obligations under the Agreement and any Credit Support Document to which it is a party and has taken all necessary action to authorise that execution, delivery, performance and its entry into the Agreement and its execution, delivery and the performance of the Agreement and any Credit Support Document do not violate or conflict with any other term or condition of any contract to which it is a party or any constitutional document, rule, law or regulation applicable to it;
- (d) no Material Reason for termination as outlined in § 10.5 (*Definition of Material Reason*), with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under the Agreement;
- (e) it has all governmental, regulatory and other authorisations, licences, approvals and consents necessary for it legally to perform its obligations under the Agreement and any Credit Support Document to which it is party;
- (f) it has negotiated, entered into and executed the Agreement and any Credit Support Document to which it is a party as principal (and not as agent or in any other capacity, fiduciary or otherwise);



- (g) it regularly enters into agreements for the trading of Natural Gas as contemplated by the Agreement, and does so on a professional basis in connection with its principal line of business, and may be reasonably characterised as a professional market party;
- (h) it is acting for its own account (and not as advisor, agent, broker or in any other capacity, fiduciary or otherwise), has made its own independent decision to enter into this General Agreement and each Individual Contract and as to whether this General Agreement and each such Individual Contract is appropriate or proper for it based upon its own judgement, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of the Agreement;
- (i) the other Party is not acting as its fiduciary or adviser;
- (j) it is not relying upon any representation made by the other Party other than those expressly set forth in the Agreement or any Credit Support Document to which it is a party;
- (k) with respect to a Party, it is not insolvent, and there are no pending or threatened legal or administrative proceedings to which it is a party which to the best of its knowledge would materially adversely affect its ability to perform any Individual Contract under the Agreement or any Credit Support Document to which it is party, such that it could become insolvent;
- (l) with respect to a Party that is a governmental Entity or public gas system or municipality, such governmental Entity or public gas system or municipality represents and warrants to the other Party as follows: (i) all acts necessary for the valid execution, delivery and performance of the Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures have or shall be taken and performed; (ii) entry into and performance of the Agreement by a governmental Entity or public gas system or municipality are for a proper public purpose within the meaning of relevant constitutional or other governing documents and applicable law; and (iii) the term of the Agreement does not extend beyond any applicable limitation imposed by any relevant constitutional or other governing documents and applicable law.

§ 22

Governing Law and Arbitration

OPTION A

1. **Governing Law:** If Option A is specified in the Election Sheet, this Agreement shall be construed and governed by English law, excluding any application of the "United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980."
2. **Arbitration:** If Option A is specified in the Election Sheet, any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be three, each Party having the right to nominate one arbitrator. The place of arbitration shall be London, England where all hearings and meetings shall be held, unless the Parties agree otherwise. Unless otherwise specified in the Election Sheet, the language to be used in the arbitral proceedings shall be English and the Parties hereby expressly waive any right of appeal to any court having jurisdiction on any question of fact or law. It is agreed that the arbitrators shall have no authority to award exemplary or punitive damages of any type under any circumstances whether or not such damages may be available under the relevant applicable law, the parties hereby waiving their right, if any, to recover such damages.

OPTION B

1. **Governing Law:** If Option B is specified in the Election Sheet, this Agreement shall be construed and governed by the substantive law of the Federal Republic of Germany, excluding any application of the "United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980".
2. **Arbitration:** If Option B is specified in the Election Sheet, any disputes which arise in connection with this Agreement shall be referred for resolution to the German Institution of Arbitration (DIS) and decided

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according to its rules, ousting the jurisdiction of the ordinary courts. The number of arbitrators shall be three. The arbitration shall be conducted in the language specified in the Election Sheet.

DEFAULT RULE

If neither Option A nor Option B is specified in the Election Sheet and the Parties' agreed choice of law and dispute resolution procedure is not specified in the Election Sheet or in the terms of the Individual Contract, then § 22.1 (*Governing Law*) and § 22.2 (*Arbitration*) of Option A shall apply.

§ 23

Miscellaneous

1. Recording Telephone Conversations: Each Party is entitled to record telephone conversations held in connection with the Agreement and to use the same as evidence. Each Party waives any further notice of such recording and acknowledges that it has obtained all necessary consents of its officers and employees to such recording.

2. Notices and Communications: Except as otherwise provided herein or agreed with respect to an Individual Contract, all notices, declarations or invoices sent by one Party to the other shall be in writing and shall be delivered by letter (overnight mail or courier, postage pre-paid) or facsimile as provided in the Election Sheet. Each Party may change its notice information by written notice to the other. Written notices, declarations and invoices shall be deemed received and effective:

- (a) if delivered by hand, on the Business Day delivered or on the first Business Day after the date of delivery if delivered on a day other than a Business Day;
- (b) if sent by first class post, on the second Business Day after the date of posting, or if sent from one country to another, on the fifth Business Day after the day of posting; or
- (c) if sent by facsimile transmission and a valid transmission report confirming good receipt is generated, on the day of transmission if transmitted before 17.00 hours (recipient's time) on a Business Day or otherwise at 09.00 hours (recipient's time) on the first Business Day after transmission.

3. Amendments: Except as provided in § 3 (*Concluding and Confirming Individual Contracts*) with respect to Confirmations, any amendments or additions to this General Agreement shall be made only in writing signed by both Parties.

4. Partial Invalidity: If, at any time, any provision of this General Agreement or an Individual Contract is or becomes illegal, invalid or unenforceable, in any respect, under the law of any relevant jurisdiction, neither the legality, validity nor enforceability of the remaining provisions of this General Agreement or of any Individual Contract, shall be in any way affected or impaired thereby. The Parties undertake to replace any illegal, invalid or unenforceable provision with a legal, valid and enforceable provision which comes as close as possible to the invalid provision as regards its economic intent.

5. Third Party Rights: The Parties do not intend that any third party shall have any rights under or be able to enforce the Agreement and the Parties exclude to the extent permitted under applicable law any such third party rights that might otherwise be implied.

Executed by the duly authorised representative of each Party effective as of the Effective Date.

[Name of Party]

[Name of Party]

[Name of Signatory/ies]

[Name of Signatory/ies]

[Title of Signatory/ies]

[Title of Signatory/ies]



EFET

European Federation of Energy Traders

ANNEX 1 To The General Agreement

Defined Terms

Terms used in the General Agreement shall have the following meanings:

"**Affiliate**" means with respect to a Party, any Entity Controlled, directly or indirectly, by that Party, any Entity that Controls, directly or indirectly that Party or any Entity directly or indirectly under the common Control of a Party;

"**Agreement**" has the meaning specified in § 1.1 (*Subject of Agreement*);

"**Alternate Commodity Reference Price**" has the meaning, if any, specified in each Individual Contract containing a Floating Price;

"**Alternative Settlement Price**" has the meaning specified in § 15.2 (*Market Disruption*);

"**American Style Option**" means a style of Option which may be Exercised during an Exercise Period that consists of more than one day;

"**Automatic Termination**" has the meaning specified in § 10.4 (*Automatic Termination*);

"**Business Day**" means a day (other than Saturday or Sunday) on which commercial banks are open for general business at the places where each Party has its registered office;

"**Buyer**" has the meaning specified in the Individual Contract;

"**Buyer's Default**" has the meaning specified in § 8.5(b);

"**Buyer's System**" means, in respect of an Individual Contract, the gas pipeline system(s) referred to as such in the terms of such Individual Contract;

"**Calculation Agent**" has the meaning specified in § 15.5 (*Calculation Agent*);

"**Calculation Date**" has the meaning specified in a Floating Price Individual Contract;

"**Calculation Method**" has the meaning specified in a Floating Price Individual Contract;

"**Call Option**" has the meaning specified in § 5.1 (*Delivery and Acceptance Pursuant to an Option*);

"**Central European Time**" or "CET" means GMT + 2 hours during the summer-time period and GMT + 1 hour during the rest of the year and for these purposes the "**summer-time period**" shall be as defined in the Eighth Directive (97/44/EC) and Directive 2000/84/EC and any succeeding EC legislation on summer-time arrangements;

"**Claiming Party**" has the meaning specified in § 7.1 (*Definition of Force Majeure*) and refers to a Party claiming relief under § 7 (*Non-Performance Due to Force Majeure*);

"**Commodity**" means, unless otherwise provided in the Election Sheet, any tangible or intangible commodity of any type or description (including, without limitation, electric power, electric power capacity, natural gas, natural gas liquids, heating oil and other petroleum by-products or fuels).

"**Commodity Reference Price**" has the general meaning specified in § 15.4 (*Definition of Market Disruption Event*), and with respect to a Floating Price Individual Contract, as specified in that Floating Price Individual Contract;

"**Confidential Information**" has the meaning specified in § 20.1 (*Confidentiality*);

"**Confirmation**" has the meaning specified in § 3.2 (*Confirmations*);

"**Contract Price**" means, in respect of an Individual Contract, the price agreed between the Parties;

"**Contract Quantity**" means, in respect of an Individual Contract, the quantity of Natural Gas, expressed in MWh, to be delivered by the Seller and accepted by the Buyer in a Time Unit pursuant to such Individual Contract as agreed between the Parties;

"**Control**" means ownership of more than 50% of the voting power of a Party or Entity and "**Controlled**" or "**Controlling**" shall be construed accordingly;

"**Control and Profit Transfer Agreement**" has the meaning specified in § 17.2(a)(iii) (*Credit Rating*);

"**Controlling Party**" has the meaning specified in § 17.2(a)(iii) (*Credit Rating*);

"**Costs**" has the meaning specified in § 11.2(a) (*Settlement Amount*);

"**Credit Rating**" means in respect of an Entity any of the following:

- (i) the long-term unsecured, unsubordinated (unsupported by third party credit enhancement) public debt rating;
- (ii) the debt issuer's credit rating; or
- (iii) the corporate credit rating given to that entity, in each of cases (i) to (iii) by Standard & Poor's Rating Group (a division of McGraw-Hill Inc.) or Moody's Investor Services Inc.;

"**Credit Support Documents**" has the meaning specified with respect to a Party in the Election Sheet, which may include, without limitation, a parent guarantee, bank guarantee, letter of awareness, letter of credit or any credit support agreement;

"**Credit Support Provider**" has the meaning specified with respect to a Party in the Election Sheet;

"**Damages**" has the meaning specified in § 12.2 (*Exclusion of Liability*);

"**Day**" means a period commencing at 0600 hours CET on any day and ending at 0600 hours CET on the following day, unless otherwise agreed by the Parties for an Individual Contract;

"**Dealers**" has the meaning specified in § 15.3(c) (*Dealer Fallback*);

"**Defaulting Party**" has the meaning specified in § 9 (*Suspension of Delivery or Acceptance*);

"**Default Quantity**" means, in respect of a Time Unit and an Individual Contract, the quantity equal to the Contract Quantity minus the Delivered Quantity;

"**Delivered Quantity**" has the meaning specified in § 6.4 (*Measurement of Natural Gas Deliveries and Receipts*);

"**Delivery Point**" means, in respect of an Individual Contract, the delivery point agreed between the Parties;

"**Due Date**" has the meaning specified in § 13.2 (*Payment*) and § 10.3(d) (*Termination for a Material Reason*);

"**Early Termination**" has the meaning specified in § 10.3(a) (*Termination for a Material Reason*);

"**Early Termination Date**" has the meaning specified in § 10.3(b) (*Termination for a Material Reason*);

"**EBIT**" means earnings before interest and taxes which, shall be in respect of the relevant fiscal year, the net revenue of the Relevant Entity before deducting corporate taxes (or any other tax on income or gains in the

Annex 1-2

relevant jurisdiction of the Relevant Entity); plus the sum of all interest and any amounts in the nature of interest charged to expense relating to financial indebtedness for borrowed money (which amounts include debts payable to Affiliates as well as debt instruments to financial institutions) of the Relevant Entity;

"**Effective Date**" has the meaning set out on the first page of this General Agreement;

"**Election Sheet**" has the meaning specified in § 1.1 (*Subject of Agreement*);

"**Entity**" means an individual, government or state or division thereof, government or state agency, corporation, partnership or such other entity as the context may require;

"**EU**" means the European Community as it exists from time to time.

"**European Style Option**" means a style of Option which may be Exercised only on the day of the Exercise Deadline;

"**Exercise**" means the exercise of an Option pursuant to § 5.3 (*Exercise of Option and Deadline*) and "**Exercises**" and "**Exercised**" shall be construed accordingly;

"**Exercise Deadline**" means the day and time by which Exercise must be given under § 5.3 (*Exercise of Option and Deadline*);

"**Exercise Period**" means:

- (i) in respect of a European Style Option, the day of the Exercise Deadline; and
- (ii) in respect of any other Option including an American Style Option, each of the periods specified in the Individual Contract;

"**Expiration Date**" has the meaning specified in § 10.2 (*Expiration Date and 30 Day Termination Notice*) of the Election Sheet;

"**Fallback Mechanism**" has the meaning specified in § 15.3 (*Fallback Mechanism*);

"**Floating Price**" has the meaning specified in § 15.1 (*Settlement Price Calculation*);

"**Force Majeure**" has the meaning specified in § 7.1 (*Definition of Force Majeure*);

"**Funds from Operations**" means the amount of cash generated or employed by the Relevant Entity in its operating activities;

"**Gains**" has the meaning specified in § 11.2(b) (*Settlement Amount*);

"**General Agreement**" means this General Agreement Concerning the Delivery and Acceptance of Natural Gas;

"**Gigajoules**" or "**GJ**" means 1,000,000,000 Joules;

"**GMT**" means Greenwich Mean Time;

"**Holder**" has the meaning specified in § 5.1 (*Delivery and Acceptance Pursuant to an Option*);

"**Interest Rate**" has the meaning specified in § 13.5 (*Default Interest*);

"**Individual Contract**" has the meaning specified in § 1.1 (*Subject of Agreement*);

"**Joule**" or "**J**" means the unit of energy defined as such in ISO 1000 [1992 (E)];

"**Letter of Credit**" means an irrevocable standby letter of credit payable on demand in a form and substance satisfactory to the Requesting Party and issued by a financial institution whose Credit Rating is at least the rating specified in the Election Sheet as provided in § 17.2(b) (Credit Rating of a Credit Support Provider that is a Bank);

"**Long Term Force Majeure Limit**" shall, in respect of an Individual Contract, have the meaning specified in the terms of such Individual Contract and if not so specified, shall be determined as follows:

Annex 1-3

- (a) if the supply period of the Individual Contract is one year or more, the Long Term Force Majeure Limit shall be ninety (90) consecutive Days;
- (b) if the supply period of the Individual Contract is not less than three months but not more than one year the Long Term Force Majeure Limit (LTFML) shall be calculated in accordance with the following formula:

$$LTFML = Z \times \frac{90}{365}$$

where Z = the number of Days in the Total Supply Period of the relevant Individual Contract;
and

- (c) if the supply period of the Individual Contract is less than three months, there shall be no Long Term Force Majeure Limit;

"Losses" has the meaning specified in § 11.2(c) (*Settlement Amount*);

"Maintenance Notice" means a notice issued by the upstream, downstream, or hub operator (as applicable) which provides sufficient information to market participants in a non-discriminatory manner regarding such operator's schedule for planned maintenance;

"Market Disruption Event" has the meaning specified in § 15.4 (*Definition of a Market Disruption Event*);

"Material Adverse Change" has the meaning specified in § 17.2 (*Material Adverse Change*);

"Material Reason" has the meaning specified in § 10.5 (*Definition of a Material Reason*);

"Megawatt Hours" or "MWh" means three decimal six (3.6) GJ;

"Month" means a period beginning at 06:00 hours CET on the first day of a calendar month and ending at 06:00 hours CET on the first day of the next succeeding calendar month, unless otherwise agreed by the parties for an Individual Contract;

"Natural Gas" means any hydrocarbons or mixture of hydrocarbons and non-combustible gases, consisting primarily of methane, which, when extracted from the subsoil of the earth in its natural state, separately or together with liquid hydrocarbons, is in the gaseous state;

"Negotiation Period" has the meaning specified in § 14.8 (*Termination for New Tax*);

"Network Operator" means:

- (a) in respect of the Seller, the operator of the Seller's System or of the Relevant System (according to the terms of the Individual Contract); and
- (b) in respect of the Buyer, the operator of the Buyer's System or the Relevant System (according to the terms of the Individual Contract);

together, in each case, with any nomination matching agent, despatching agent, allocation agent or hub operator in respect of the Delivery Point or any of them, as the context requires;

"New Tax" means in respect of an Individual Contract, any Tax enacted and effective after the date on which the Individual Contract is entered into, or that portion of an existing Tax which constitutes an effective increase (taking effect after the date on which the Individual Contract is entered into) in applicable rates, or extension of any existing Tax to the extent that it is levied on a new or different class of persons as a result of any law, order, rule, regulation, decree or concession or the interpretation thereof by the relevant taxing authority, enacted and effective after the date on which the Individual Contract is entered into;

"Non-Defaulting Party" has the meaning specified in § 9 (*Suspension of Delivery or Acceptance*);

"Non-Taxed Party" has the meaning specified in § 14.8 (*Termination for New Tax*);

"**Nomination and Allocation Arrangements**" means the arrangements and procedures which are in effect at the Delivery Point for the purpose of determining the quantities of Natural Gas which flowed or are deemed to have flowed in one or both directions at such Delivery Point in any Time Unit and allocating such flow between shippers in gas pipeline systems either upstream or downstream of the Delivery Point, including any arrangements and procedures for receiving and matching nominations;

"**Notified Planned Maintenance Point**" means any point so identified from time to time by EFET on the list of Notified Planned Maintenance Points published on, and accessible through, its web page at <www.efet.org>.

"**Off-Spec Gas**" means Natural Gas which does not comply with the Transportation Requirements;

"**Option**" has the meaning specified in § 5.1 (*Delivery and Acceptance Pursuant to an Option*);

"**Ordinary Termination**" has the meaning specified in § 10.2 (*Expiration Date and 30 Day Termination Notice*);

"**Other Tax**" means any energy Tax or excise duty but not including Taxes targeted at end users.

"**Party A**" means the Party identified as such in the Election Sheet;

"**Party B**" means the Party identified as such in the Election Sheet;

"**Performance Assurance**" has the meaning specified in § 17.1 (*Performance Assurance*);

"**Physical Downstream Transportation System**" means, in respect of the Delivery Point specified in an Individual Contract, the gas pipeline system into which the stream of Natural Gas is flowing at such Delivery Point at the relevant time;

"**Physical Downstream Transporter**" means, in respect of a delivery point specified in an Individual Contract, the operator of the Physical Downstream Transportation System;

"**Physical Upstream Transportation System**" means, in respect of the Delivery Point specified in an Individual Contract, the gas pipeline system out of which the stream of Natural Gas is flowing at such Delivery Point at the relevant time;

"**Physical Upstream Transporter**" means, in respect of a delivery point specified in an Individual Contract, the operator of the Physical Upstream Transportation System;

"**Premium**" has the meaning specified in the Individual Contract for an Option;

"**Premium Payment Date**" has the meaning specified in the Individual Contract for an Option or if not so specified, as provided by § 5.2 (*Premium for the Option*);

"**Price Source**" has the meaning specified in § 15.4 (*Definition of a Market Disruption Event*);

"**Put Option**" has the meaning specified in § 5.1 (*Delivery and Acceptance Pursuant to an Option*);

"**Relevant Entity**" has the meaning specified in § 17.2(a) (*Credit Rating*);

"**Relevant System**" means, in respect of an Individual Contract, the gas pipeline system referred to as such in the terms of such Individual Contract;

"**Remaining Contract Quantity**" has the meaning specified in § 14.8 (*Termination for New Tax*);

"**Requesting Party**" has the meaning specified in § 17.1 (*Credit Rating*);

"**Schedule**" has the meaning specified in § 4.2 (*Definition of Schedule*) and "**Scheduled**" and "**Scheduling**" shall be construed accordingly;

"**Seller**" has the meaning specified in the Individual Contract;

"**Seller's Default**" has the meaning specified in § 8.5(a);



"**Seller's System**" means in respect of an Individual Contract, the gas pipeline system(s) referred to as such in the terms of such Individual Contract;

"**Settlement Amount**" has the meaning specified in § 11.2 (*Settlement Amount*);

"**Settlement Date**" has the meaning specified in the Individual Contract;

"**Settlement Price**" has the meaning specified in the Individual Contract;

"**Specified Indebtedness**" means any financial indebtedness (whether present or future, contingent or otherwise, as principal or surety or otherwise) for borrowed money (which includes debts payable to Affiliates as well as debt instruments to financial institutions);

"**Tangible Net Worth**" means the sum of all paid up shareholder cash contributions to the share capital account or any other capital account of the Relevant Entity ascribed for such purposes of the Relevant Entity and any accumulated retained earnings less any accumulated retained losses and intangible assets including, but not limited to, goodwill;

"**Tax**" means any tax, levy, impost, duty, charge, assessment, royalty, tariff or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment, nomination and allocation under any Individual Contract, on Natural Gas, or on the sale, transportation or supply of Natural Gas, and "**Taxes**" shall be construed accordingly. For the avoidance of doubt Tax shall exclude (i) any tax on net income or net wealth; (ii) any tax on income derived from the exploration or exploitation of Natural Gas fields; (iii) a stamp, registration, documentation or similar tax, and (iv) VAT;

"**Taxed Party**" has the meaning specified in § 14.8 (*Termination for New Tax*);

"**Terminating Party**" has the meaning specified in § 10.3 (*Termination for Material Reason*);

"**Termination Amount**" has the meaning specified in § 11.1 (*Termination Amount*);

"**Time Unit**" means, in respect of an Individual Contract, the Time Unit agreed by the Parties for the purposes of such Individual Contract;

"**Tolerance**" shall subject to § 8.8 (*Use of Tolerance*), in respect of an Individual Contract, have the meaning specified in the terms of such Individual Contract and, if not so specified, shall be zero;

"**Total Capitalisation**" means in respect of the relevant period the sum of Total Debt and all paid up shareholder cash contributions to the share capital account or any other capital account of the Relevant Entity ascribed for such purposes of the Relevant Entity;

"**Total Debt**" means in respect of the relevant period the sum of financial indebtedness for borrowed money (which includes debts payable to affiliated companies as well as debt instruments to financial institutions) of the Relevant Entity;

"**Total Supply Period**" means, in respect of an Individual Contract, the supply period agreed between the Parties;

"**Transportation Failure**" means an event or occurrence affecting the operation of a gas pipeline system (in which the Claiming Party has contracted firm transportation rights for the purpose of the relevant Individual Contract) on one or other side of the Delivery Point which:

- (a) is beyond the reasonable control of the Claiming Party and which could not reasonably have been avoided or overcome by the Claiming Party and which makes it impossible for the Claiming Party to perform its delivery or acceptance obligations in respect of the relevant Individual Contract; and
- (b) is beyond the reasonable control of the Network Operator for such gas pipeline system and which could not reasonably have been avoided or overcome by such Network Operator and which makes it impossible for such Network Operator to fulfil its contractual obligations to the Claiming Party in respect of the delivery or acceptance of Natural Gas (as the case may be).

For the avoidance of doubt "Transportation Failure" shall include both unplanned and planned maintenance on the Seller's/Buyer's/Relevant System (as applicable) which prevents the performance of the claiming Party; *provided, however*, that in the event the applicable Delivery Point is a Notified Planned Maintenance Point and the operator of the Delivery Point, or, as applicable, the pipeline system facilities necessary for, as applicable to the underlying claim, delivery or acceptance of Natural Gas at such Delivery Point, issued a Maintenance Notice, prior to the time at which the relevant Individual Contract was first concluded, of a period of planned maintenance at, on or directly impacting Natural Gas flows at such Delivery Point, such period of planned maintenance shall not constitute Transportation Failure.

"Transportation Requirements" means the quality and pressure requirements for the entry of Natural Gas into the Physical Downstream Transportation System at the Delivery Point;

"Valid Certificate" means any appropriate documentation accepted by the relevant taxing authorities or as required by applicable law, order, rule, regulation decree or concession or the interpretation thereof;

"VAT" means any value added tax or any tax analogous thereto but excluding any statutory late payment interest or penalties; and

"VAT Rules" means any VAT law, order, rule, regulation, decree or concession or the interpretation thereof;

"Zero-Rated" means, in respect of a supply, a tax exempt export or tax-free export under applicable VAT Rules and **"Zero-Rating"** shall be construed accordingly.

"Writer" has the meaning specified in § 5.1 (*Delivery and Acceptance Pursuant to an Option*).

European Federation of Energy Traders

Election Sheet to the General Agreement for Natural Gas

with an Effective Date of _____

between BP Italia S.p.A. and _____

"Party A"

"Party B"

PART I: CUSTOMISATION OF PROVISIONS IN THE GENERAL AGREEMENT

§1

Subject of Agreement

§ 1.1 Subject of Agreement: This General Agreement shall only apply to an Individual Contract concluded on the GME Platform For the Trading of Bids/Offers of Natural Gas (P-Gas) (the "**GME Platform**") in respect of which the Delivery Point is the Punto di Scambio Virtuale in Italy and Party A is the Seller. In the event that more than one Individual Contract is entered by the Parties on the GME Platform for a "Yearly Product" with Party A as the Seller on identical General Agreement terms to the terms of this Individual Contract, all such Individual Contracts shall be deemed to be subject to the terms of the same General Agreement.

§ 1.2 Pre-Existing Contracts: § 1.2 shall not apply.

§2

Definitions and Construction

§ 2.4 References to Time: Time references shall be as provided in the General Agreement (CET).

§3

Concluding and Confirming Individual Contracts

§ 3.4 Authorised Persons: § 3.4 shall not apply to Party A.
§ 3.4 shall not apply to Party B.

§5

Primary Obligations for Options

No Options shall be entered into under this General Agreement.

§6

Delivery, Measurement, Transportation and Risk

§ 6.7 Seller and Buyer Risks: The words "and except as otherwise provided in this Agreement" shall be added after the words "*(Remedies for Failure to Deliver or Accept the Contract Quantity)*".

§7

Non-Performance Due to Force Majeure

§ 7.1 Definition of Force Majeure:

§ 7.1 shall be amended as follows:

(a) the last sentence of §7.1 shall be deleted; and

(b) the following events shall be deemed to be events of Force Majeure :

(i) any circumstances affecting or delaying the ability of the Seller or any of its Affiliates to deliver, receive and/or unload LNG at the Rovigo Terminal (including, without limitation, adverse weather conditions) or any unavailability of, or damage to, the Rovigo Terminal; or

(ii) any failure or delay of the operator of the Rovigo Terminal to provide services to the Seller at the Rovigo Terminal or to deliver Natural Gas to the Seller at the PSV for reasons not attributable to the Seller or its Affiliates; or

(iii) any damage to or breakdown of or unavailability of an LNG Ship scheduled to deliver LNG to the Rovigo Terminal on behalf of the Seller or one of its Affiliates in accordance with the delivery scheduling procedures of the Rovigo Terminal (whether before or after loading of LNG); or

(iv) any unplanned maintenance at the Rovigo Terminal or in the Natural Gas transportation system operated by SNAM Rete Gas S.p.A (or any successor) in Italy which prevents, reduces or delays the delivery or acceptance or processing of LNG or the transportation of Natural Gas or the delivery or acceptance of Natural Gas upstream of or at the PSV.

§8

Remedies for Failure to Deliver or Accept the Contract Quantity

§ 8.5 Definitions and Interpretation:

A new § 8.5(e) shall be added as follows:

"(e) for the avoidance of doubt the references to "other reasonable and verifiable costs and expenses" in §8.1 to § 8.4 (inclusive) shall not in any circumstances include any loss of profit, goodwill, business opportunity or anticipated saving or any indirect or consequential Damages."

§10

Term and Termination Rights

§ 10.2 Expiration Date:

The Expiration Date shall be the day after the day on which the Total Supply Period ends.



§ 10.3 (a) Termination for Material Reason:

The last sentence of § 10.3 (a) shall be deleted.

§ 10.4 Automatic Termination: § 10.4 shall not apply to Party A.

§ 10.4 shall not apply to Party B unless Party B is an Entity incorporated or established in either the Federal Republic of Germany or Austria when it shall apply upon the occurrence of a Material Reason as described in § 10.5 (c)(x), with termination effective on the date immediately prior to the date of the occurrence of the Material Reason.

§ 10.5(b) Cross Default and Acceleration:

§ 10.5(b)(i) shall not apply to Party A.
§ 10.5(b)(ii) shall not apply to Party A.
§ 10.5(b)(i) shall not apply to Party B.
§ 10.5(b)(ii) shall not apply to Party B.

§ 10.5(c) Winding-up/Insolvency/Attachment:

§ 10.5(c)(iv) shall apply with an applicable time period of 15 days in the case of a proceeding instituted or presented against a Party or its Credit Support Provider (except that it shall not apply to Party B if Party B is an Entity incorporated or established in the Federal Republic of Germany or Austria).

§ 10.5(d) Failure to Deliver or Accept:

§ 10.5(d) shall only apply if the failure to deliver or accept Natural Gas is in respect of either: (i) the total Contract Quantity for all Time Units in more than seven (7) consecutive Days; or (ii) the total Contract Quantity for all Time Units in a Day for more than seven (7) Days in aggregate in any sixty (60) Day period.

§ 10.5 (e) Definition of Material Reason: Representation or Warranty:

§ 10.5 (e) shall be deleted.

§ 10.5 Other Material Reasons: Material Reasons shall be limited to those stated in the General Agreement except the following additional § 10.5 (c)(x) shall apply to Party B if it is an Entity incorporated or established in the Federal Republic of Germany or Austria:

(x) (in respect of Party B or its Credit Support Provider or its Controlling Party only) institutes or has instituted against it the commencement of formal insolvency proceedings (*Antragstellung auf Eröffnung des Insolvenzverfahrens*) or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights and such party has either instituted such proceedings itself or such Party or its Credit Support Provider or Controlling Party, as the case may be, is unable to pay its respective debts as they fall due, or is otherwise in a position which justifies the institution of such insolvency proceedings.

§ 10.5 Withdrawal:

In respect of a Party incorporated or established in Italy, references in the General Agreement to the right of the other Party to terminate the General Agreement and all Individual Contracts entered into pursuant to it as a result of the Material Reasons set out in § 10.5(c)(ii), § 10.5(c)(iii), § 10.5(c)(iv), § 10.5(c)(v) and § 10.5(c)(vi) shall be deemed to be references to a right of the Terminating Party to withdraw (*diritto di recesso*) from the General Agreement and each Individual Contract in accordance with Article 1373 of the Italian Civil Code. Upon any such withdrawal the Parties have agreed that the Terminating Party shall be entitled to claim liquidated damages (*penale*) for its losses suffered as a result of the withdrawal from each Individual Contract and that such liquidated damages shall be calculated and paid in the same way as the Termination Amount as set out in §11.

§ 11.2 Calculation of the Termination Amount:

The last sentence of § 11.2 shall be deleted and replaced by the following:

"In calculating the Settlement Amounts (a) Gains and Losses shall, as far as practicable, be determined by reference to relevant pricing indices or prices; and (b) the Terminating Party shall calculate its Gains and Losses as at the Early Termination Date, or, if that is not reasonably practicable, as at the earliest date after the Early Termination Date as is reasonably practicable without the obligation to enter into any replacement transactions".

§12

Limitation of Liability

§ 12 Application of Limitation: § 12 shall apply as written in the General Agreement.

§13

Invoicing and Payment

§ 13.1 Invoice:

The following shall be added to the end of §13.1:

"Notwithstanding §23.2, invoices may be sent by email to the email address provided by the other Party from time to time for billing purposes. Emails shall be deemed to have been received on the day sent if such day is a Business Day or on the next Business Day if the day of sending is not a Business Day provided the sending Party has not received an "email undeliverable" message or similar response."

§ 13.2 Payment:

Initial billing and payment information for each Party is set out in § 23.2 (*Notices and Communications*) of this Election Sheet.

§ 13.3 Payment Netting:

§ 13.3 shall apply with the addition of the words "provided that nothing in this § 13.3 shall release the Parties from their obligation to issue invoices for each Individual Contract in accordance with § 13.1".

§ 13.5 Interest Rate: The Interest Rate shall be the one month EURIBOR interest rate for 11:00 a.m. on the Due Date, plus three percent (3%) per annum.

§ 13.6 Disputed Amounts: §13.6 (a) shall apply.

§14
VAT and Taxes

§ 14.8 Termination for New Tax: §14.8 shall not apply.

§ 14.9 Withholding Tax: §14.9 shall not apply.

§15
Settlement of Floating Prices and Fallback Procedures For Market Disruption

§ 15.1 Floating Prices and Fallback Procedure for Market Disruption: Calculation of Floating Contract Prices:

§ 15.1 shall be deleted and replaced by the following "In the event the Contract Price is based on an index, exchange or any other kind of variable reference price the Contract Price shall be calculated in accordance with the method specified in the Confirmation or agreement for the Individual Contract (such price being the "Floating Price)".

§ 15.5 Calculation Agent: The Calculation Agent shall be the Seller.

§16
Guarantees and Credit Support

§ 16 Credit Support Documents: As at the Effective Date, Party A shall provide Party B with the following Credit Support Document(s): Not Applicable

Party B shall provide Party A with a bank guarantee (the "Bank Guarantee") in the form attached to this Election Sheet, as follows:

- (a) Party A shall notify Party B by no later than ten (10) Business Days after conclusion of an Individual Contract on the GM Platform of the value in Euros of the Bank Guarantee to be issued in respect of Party B's obligations under such Individual Contract. The Bank Guarantee shall be provided by Party B to Party A by no later than five (5) Business Days after such notification, shall have a start date of no later than 1st October in the relevant year and shall have an expiration date of no earlier than 30th October in the following year. Party A shall calculate the value of the Bank Guarantee as follows:

Contract Quantity x N x Contract Price

where:

- (i) for the purposes of this § 16, the Contract Price will be:



- (aa) if the Contract Price is a fixed price, the Contract Price; or
 - (bb) if the Contract Price is a variable price, the Contract Price will be calculated in accordance with the formula set out in the Individual Contract on the basis of the prices published for the Month before the Month in which the Individual Contract was concluded on the GME Platform; and
- (ii) "N" equals 180.
- (b) Any failure by Party A to notify the Buyer of the value of the Bank Guarantee to be provided shall not relieve Party B from the obligation to provide such Bank Guarantee by the date specified and in such circumstances Party B shall calculate the value of the Bank Guarantee.
 - (c) The Bank Guarantee shall be issued by a bank reasonably acceptable to Party A with a Credit Rating of at least A (as given by Standard & Poor's Rating Services or any successor rating agency thereto) and A2 (as given by Moody's Investor Services Inc. or any successor rating agency thereto).
 - (d) A failure of Party B to deliver the Bank Guarantee by the specified time shall be a Material Reason for the purposes of § 10.5 (a) giving Party A the right to terminate the Individual Contract and this General Agreement.

§ 16 Credit Support Provider: As at the Effective Date, Credit Support Provider(s) of Party A shall be: Not Applicable

As at the Effective Date, Credit Support Provider(s) of Party B shall be: any bank issuing the Bank Guarantee referred to above.

§17

Performance Assurance

§ 17.2 Material Adverse Change: the following categories of Material Adverse Change shall apply to Party A:

§ 17.2 (a) **(Credit Rating)** on the basis that BP plc shall be the sole "Relevant Entity" and the minimum rating shall be: BBB (as given by Standard & Poor's Rating Services or any successor rating agency thereto) or Baa2 (as given by Moody's Investor Services Inc. or any successor rating agency thereto), the lower of which shall apply;

§ 17.2 (b) **(Credit Rating of a Credit Support Provider or Provider of Performance Assurance that is a Bank)** and the minimum rating shall be A (as given by Standard & Poor's Rating Services or any successor rating agency thereto) or A2 (as given by Moody's Investor Services Inc. or any successor rating agency thereto), the lower of which shall apply;

§ 17.2 (e) (**Expiry of Performance Assurance or Credit Support**), and the relevant time period shall be 20 Business Days;

§ 17.2 (f) (**Failure of Performance Assurance or Credit Support**);

and

§ 17.2 (i) (**Amalgamation/Merger**) on the basis § 17.2 (i)(i) is deleted and replaced with the following: "(i) the Credit Rating of any Entity that is the successor of its Relevant Entity is below the rating set out for such Party in the Election Sheet;"

the following categories of Material Adverse Change shall apply to Party B:

§ 17.2 (b) (**Credit Rating of Credit Support Provider or Provider of Performance Assurance that is a Bank**) and the minimum rating shall be A (as given by Standard & Poor's Rating Services or any successor rating agency thereto) or A2 (as given by Moody's Investor Services Inc. or any successor rating agency thereto), the lower of which shall apply;

§ 17.2 (e) (**Expiry of Performance Assurance or Credit Support**) and the relevant time period shall be 20 Business Days;

§ 17.2 (f) (**Failure of Performance Assurance or Credit Support**);

§ 17.2 (g) (**Failure of Control and Profit Transfer Agreement**);

§ 17.2 (h) (**Impaired Ability to Perform**); and

§ 17.2 (i) (**Amalgamation/Merger**).

§ 17.2: Material Adverse Change:

The following shall be added to the definition of "Control and Profit Transfer Agreement" in § 17.2(a)(iii): "or an Entity who has filed a declaration in accordance with the provisions of article 2:403(1)(f) of the Netherlands Civil Code in respect of the other Party".

§18

Provision of Financial Statements and Tangible Net Worth

§ 18.1 (a) Annual Reports: Party A need not deliver annual reports.
Party B need not deliver annual reports.

§ 18.1 (b) Quarterly Reports: Party A need not deliver quarterly reports.
Party B need not deliver quarterly reports.

§ 18.2 Tangible Net Worth: Party A shall have no duty to notify as provided in §18.2.
Party B shall have no duty to notify as provided in §18.2.

§19

Assignment

§ 19.2 Assignment to Affiliates: Party A may not assign in accordance with § 19.2.
Party B may not assign in accordance with § 19.2.

§20

Confidentiality

§ 20.1 Confidentiality Obligation: § 20 shall apply.

§21
Representation and Warranties

The Following Representations and Warranties are made:

	by Party A:	by Party B:
§21(a)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(b)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(c)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(d)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(e)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(f)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(g)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(h)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(i)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(j)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(k)	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
§21(l)	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no

The words "so far as it is aware" shall be added to the beginning of §21(e).

§22
Governing Law and Arbitration

§ 22.1 Governing Law:

Option A shall apply but after the word "Agreement" in the first line the following shall be inserted:

"and any issues or disputes arising out of or in connection with this Agreement (whether such disputes are contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation, or otherwise)".

§23
Miscellaneous

§ 23.2 Notices, Invoices and Payments:

(a) **TO PARTY A:**

**Confirmations, Notices &
Correspondence**

Address: via A Cechov 50/2 – 20151, Milano, Italia

Telephone No:



Fax No: +39 02 3344 55 50

Attention: Head of Gas & Power, Italy

Invoices and Settlements

Address:

Fax No:

Email: gasbpitalia@bp.com

Attention:

Payments

Bank account details

(b) **TO PARTY B:**

Notices & Correspondence

Address:

Telephone No:

Fax No:

Email: []

Attention: [Job Title]

Invoices

Fax No:

Attention: [Job Title]

Payments

Bank account details

1. Annex 1 – Defined Terms

"Commodity" shall have the meaning specified in Annex 1.



"Contract Quantity" the definition of Contract Quantity shall be amended by deleting the reference to "MWh" and replacing it with "the unit of energy or volume specified in the Individual Contract".

"Credit Support Documents" the definition of Credit Support Documents shall be amended by deleting the words "has the meaning specified with respect to a Party specified in the Election Sheet" and replacing them with "any credit support provided in respect of this General Agreement or an Individual Contract from time to time".

"Credit Support Provider" shall be deleted and replaced by the following "an Entity providing Credit Support Documents".

"GME Platform" shall have the meaning given to it in § 1.1 (*Subject of Agreement*).

"LNG" means liquefied natural gas.

"LNG Ship" means a vessel designed, constructed and equipped and maintained to load, carry and deliver LNG.

"PSV" shall have the meaning given to it in the PSV Appendix to this General Agreement.

"Rovigo Terminal" means the LNG regasification plant located in the Adriatic Sea offshore from Porto Levante (Rovigo) in Italy.

Executed by the duly authorised representative of each Party effective as of the Effective Date.

"Party A"

"Party B"



 BP Italia S.p.A.

 [Name of Party]

Marco Condoloro
Head of Gas, Italy

The Parties declare and acknowledge that they have negotiated all the clauses of this General Agreement and the PSV Appendix to it and they hereby specifically and unconditionally approve, for the purposes of Articles 1341 and 1342 of the Italian Civil Code the following Sections: §1 (Subject of Agreement); § 4 (Primary Obligations For Delivery and Acceptance of and Payment For Natural Gas); § 6 (Delivery, Measurement, Transportation and Risk); § 7 (Non – Performance Due to Force Majeure); § 8 (Remedies for Failure to Deliver or Accept the Contract Quantity); § 9 (Suspension of Delivery or Acceptance); § 10 (Term and Termination Rights); § 11 (Calculation of the Termination

Amount); § 12 (Limitation of Liability); § 13 (Invoicing and Payment); § 14 (VAT and Taxes); § 16 (Guarantees and Credit Support); § 17 (Performance Assurance); § 19 (Assignment); § 20 (Confidentiality); § 21 (Representations and Warranties); § 22 (Governing Law and Arbitration) and § 23 (Miscellaneous) and § 2 of the PSV Appendix (Applicability of this PSV Appendix), § 4 of the PSV Appendix (Schedule); § 5 of the PSV Appendix (Measurement of Natural Gas Deliveries and Receipts); § 6 of the PSV Appendix (Seller and Buyer Risk); § 7 of the PSV Appendix (Force Majeure) and § 8 of the PSV Appendix (Remedies for Failure to Deliver or Accept the Contract Quantity).

"Party A"

"Party B"



BP Italia S.p.A.

[Name of Party]

Marco Candeboro
Head of Gas, Italy

Form of Bank Guarantee

[to be issued by a primary credit institution satisfactory to BP Italia and/or by a parent company on such entity's letterhead]

FIRST DEMAND, INDEPENDENT GUARANTEE

("Garanzia autonoma a prima domanda")

To:

BP Italia S.p.A.

via Cechov, 50/2, 20151 Milan

To the kind attention of: *[to be specified]*

[Place and Date]

Dear Sirs,

Re: First Demand, Independent Guarantee

This guarantee (the "**Guarantee**") is released pursuant to article 13 of the agreement for the supply of natural gas by BP Italia S.p.A. (the "**Seller**") in favour of *[to be specified]* (the "**Customer**") signed on *[to be specified]* (the "**Agreement**").

The undersigned *[Name of the Bank]* [●] and hereby represented by Mr. [●] *[and Mr. [●]]*, duly authorized by [●] (hereinafter the "**Guarantor**") hereby irrevocably and unconditionally undertakes to pay to the Seller, upon first demand and without the ability to resist or object based on any exceptions or objections, any amount which the Seller may request, in one or more times, up to a maximum amount of *[to be inserted the maximum amount of the guarantee]* (hereinafter the "**Maximum Amount**") in connection with each and all obligations of the Customer under the Agreement, subject to the terms and conditions set forth herein below.

This Guarantee is an independent guarantee ("*garanzia autonoma*") and not a surety ("*fideiussione*") and constitutes therefore an irrevocable, unconditional and autonomous obligation of the Guarantor and shall be subject only to the terms and conditions herein.

The Guarantor waives any right of defense, objection, exception, set-off ("*compensazione*") or counterclaim to the obligations assumed in this Guarantee, including based on any claims that the Customer may have against the Seller based on the Agreement or otherwise.

The Guarantor agrees:

1. that the Seller has the right to demand payments under this Guarantee without having previously enforced its claims against the Customer under the Agreement ("*rinunzia al beneficio della preventiva escussione*");
2. that this Guarantee shall be valid and binding notwithstanding any amendment or novation of the Agreement.



The Guarantor shall immediately make any payment to the Seller and in any case within 5 (five) Business Days from receipt of a written demand from the Seller in the written form (with copy to the Customer) stating that the payment of the amount indicated therein is due under the Agreement.

The Guarantor shall entirely pay any requested amount pursuant to paragraph 5 above without being entitled to request any further information, justification, formal notice, authorization, or court or arbitration decision and notwithstanding any objection or opposition from the Customer, which shall be settled exclusively pursuant to the Agreement and shall not affect the promptness of any payment under this Guarantee.

This Guarantee shall remain in full force and effect until the obligation of the Customer under the Agreement shall be complied in full by the Customer or the Customer shall be otherwise released by the obligation thereof.

All banking charges and other costs associated with this Guarantee are for the account of the Customer.

Any payment under this Guarantee shall be made free and clear of and without any deduction for or on account of any tax, levy, duty, charge or other cost whatsoever.

In the event a deduction or a retention is required by law, the Guarantor shall pay the Seller an additional amount so that the total amount paid to the Seller shall be equal to the amount that should have been paid in the absence of such deduction or retention.

Any notices relating to this Guarantee shall be made in writing by facsimile transmission with confirmation by registered letter with return receipt addressed as follows:

If to Customer

[•]

[•]

to the attention of: [•]

If to Seller

[•]

[•]

to the attention of: [•]

If to the Guarantor

[•]

[•]

to the attention of: [●]

Any communication sent pursuant to this paragraph 11 shall be considered as made on the date of confirmed transmission of the facsimile, or on the date of signature of the notice of receipt of the registered mail, whichever is earlier.

Should at any time one or more of the provisions contained herein become for any reason whatsoever null, void, invalid, ineffective or otherwise not applicable, then the validity and effectiveness of the remaining provisions of this Guarantee shall not be affected. The parties undertake to endeavour to replace the relevant provision by a valid, binding and effective one which shall come as close as possible to the economic intent of the replaced provision.

This Guarantee is governed by Italian law and Guarantor represents that this Guarantee is valid and enforceable under Italian law according to its terms and conditions.

Any disputes which may arise from and/or may be connected to the enforcement or interpretation of this Guarantee shall be attributed to the exclusive competence of the Court of Milan.

*** **

Yours faithfully,

[Guarantor]

By: _____

[●]





EFET

European Federation of Energy Traders

Amstelveenseweg 998 / 1081 JS Amsterdam

Tel: +31 20 5207970/Fax: +31 20 6464055

E-mail: secretariat@efet.org

Webpage: www.efet.org



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Sito web: www.efet.org

PSV APPENDIX

to the
EFET General Agreement
Concerning the Delivery and Acceptance of Natural
Gas

Version 2.0/January 6, 2003
(the "PSV Appendix")

NOTICE & WAIVER: THIS PSV APPENDIX WAS PREPARED JOINTLY BY EFET'S MEMBERS AND AIGET'S MEMBERS EXERCISING ALL REASONABLE CARE. HOWEVER EFET AND AIGET, THEIR MEMBERS, REPRESENTATIVES AND COUNSEL INVOLVED IN ITS PREPARATION AND APPROVAL SHALL NOT BE LIABLE OR OTHERWISE RESPONSIBLE FOR ITS USE AND ANY DAMAGES OR LOSSES RESULTING OUT OF ITS USE IN ANY PARTICULAR CASE AND IN WHATEVER JURISDICTION. IT IS THEREFORE THE RESPONSIBILITY OF EACH PARTY WISHING TO USE THIS PSV APPENDIX AND THE EFET AGREEMENT TO ENSURE ITS TERMS AND CONDITIONS ARE LEGALLY BINDING, VALID AND ENFORCEABLE AND BEST SERVE TO PROTECT THE USER'S LEGAL INTERESTS. USERS OF THIS PSV APPENDIX ARE URGED TO CONSULT RELEVANT LEGAL OPINIONS MADE AVAILABLE THROUGH EFET OR AIGET AS WELL AS THEIR OWN COUNSEL.

APPENDICE PSV

all'Accordo Quadro EFET
Concernente la
Consegna ed Accettazione
di Gas Naturale

Versione 2.0/ 6 gennaio 2003
(l'"Appendice PSV")

AVVERTENZA: LA SEGUENTE APPENDICE PSV É STATA CONCORDEMENTE REDATTA DA EFET E AIGET SECONDO I MIGLIORI PRINCIPI DI BUONA FEDE. TUTTAVIA, I MEMBRI, I RAPPRESENTANTI E I CONSULENTI LEGALI DI EFET E AIGET CHE HANNO PARTECIPATO ALLA STESURA E APPROVAZIONE DEL MEDESIMO DOCUMENTO NÉ POTRANNO ESSERE RITENUTI RESPONSABILI NÉ POTRANNO ESSERE TENUTI A RISPONDERE PER IL SUO UTILIZZO OVVERO PER QUALSIASI DANNO O PERDITA DERIVANTI DALL'UTILIZZO MEDESIMO IN ALCUN CASO ED IN QUALSIASI GIURISDIZIONE. QUALSIASI SOGGETTO CHE DESIDERI UTILIZZARE LA SEGUENTE APPENDICE PSV HA, PERTANTO, L'ONERE DI ASSICURARSI CHE I TERMINI E LE CONDIZIONI IVI PREVISTI SIANO LEGALMENTE VINCOLANTI, VALIDI ED EFFICACI NONCHÉ IDONEI A TUTELARE GLI INTERESSI DI CARATTERE LEGALE DELL'UTILIZZATORE. GLI UTILIZZATORI DELLA SEGUENTE APPENDICE PSV SONO INVITATI A RICHIEDERE CONSULENZE LEGALI TRAMITE EFET O AIGET NONCHÉ A CONSULTARE I PROPRI LEGALI.

Ull

EFET
European Federation of Energy Traders

PSV Appendix
to the
General Agreement
Concerning the Delivery and Acceptance of Natural Gas
Version 2.0/January 6, 2003

PSV APPENDIX

dated as of _____
(the "PSV Appendix Effective Date")

Between

[BP Italia S.p.A.]
and

Check the box and fill in date ONLY if you are using this PSV Appendix to modify and supplement a previously executed General Agreement between the Parties:

By executing this PSV Appendix in the signature block at the end hereof, the Parties hereby modify, supplement and amend the terms of that certain previously executed General Agreement entered into and dated as of _____, _____ to provide that the terms of this PSV Appendix shall be incorporated therein and shall be applicable to and thereafter govern all PSV Transactions (as hereinafter defined).

All PSV Transactions (as hereinafter defined) entered into prior to the PSV Appendix Effective Date, but which remain either fully or partially unperformed as of such PSV Appendix Effective Date (each such transaction a "Pre-Existing PSV Trade"), shall, as of the PSV Appendix Effective Date:

become PSV Transactions hereunder, subject to the terms and conditions of the Agreement, as modified by this PSV Appendix; or

not become PSV Transactions hereunder and instead shall remain governed by and subject to only their original terms and conditions.

EFET
European Federation of Energy Traders

Appendice PSV
all'Accordo Quadro EFET
Concernente la
Consegna ed Accettazione di Gas Naturale
Versione 2.0/ 6 gennaio 2003

APPENDICE PSV

data _____
(la "Data di Efficacia dell'Appendice PSV")

Tra

[BP Italia S.p.A.]
e

Contrassegnare la casella ed inserire la data ESCLUSIVAMENTE qualora si utilizzi la seguente Appendice PSV per modificare ed integrare un Accordo Quadro precedentemente stipulato tra le Parti:

Con la sottoscrizione della presente Appendice PSV nell'apposito spazio in calce alla stessa, le Parti modificano, integrano e rettificano quanto stabilito nell'Accordo Quadro entrato in vigore e stipulato in data _____, _____ in modo che quanto previsto dalla presente Appendice PSV sia incorporato nello stesso, sia applicato e disciplini tutte le Operazioni PSV (come di seguito definite).

Tutte le Operazioni PSV (come di seguito definite) stipulate precedentemente alla Data di Efficacia dell'Appendice PSV ma a cui non sia stata data esecuzione in tutto o in parte alla Data di Efficacia dell'Appendice PSV (ciascuna operazione una "Precedente Operazione PSV"), alla medesima Data di Efficacia dell'Appendice PSV:

diventano Operazioni PSV soggette ai termini e alle condizioni del Contratto, come modificato dalla presente Appendice PSV; ovvero

non diventano Operazioni PSV e restano disciplinate da e soggette esclusivamente dai termini e condizioni originariamente pattuiti.

PSV APPENDIX

The provisions of the General Agreement are hereby amended and supplemented in accordance with the following:

Part I: General Terms

1. PSV Manual and Incorporation of its Defined Terms

Terms used in this PSV Appendix and not otherwise defined herein or in the General Agreement shall have the meanings given to them (or their Italian translation) in the PSV Manual. For ease of reference, this PSV Appendix includes italicized, bracketed references to Italian language terminology employed in the PSV Manual at the time of issuance of this PSV Appendix (version 1.0). In the event that later versions or amendments to the PSV Manual employ alternative terminology, any no longer applicable referenced terms contained in this PSV Appendix should be struck out of this PSV Appendix and/or construed to be references to the relevant alternative terminology being employed in the then current version of the PSV Manual.

For the purposes of this PSV Appendix and all PSV Transactions as defined in Clause 2 below, SRG shall be the relevant Network Operator.

2. Applicability of this PSV Appendix

This PSV Appendix to the General Agreement (inclusive of this PSV Appendix's Annexes) modifies, amends and supplements, to the extent set forth herein, certain provisions of the General Agreement (which pursuant to § 1.1 (*Subject of Agreement*) of the General Agreement, including its Annexes, Appendices and Election Sheet) and, together with the General Agreement, shall except and to the extent, if any, provided otherwise in this PSV Appendix in respect of Pre-Existing PSV Trades, apply to and govern all Individual Contracts entered into by the Parties for and concerning the delivery and acceptance of Natural Gas at the PSV (each such Individual Contract a "PSV Transaction", and collectively, the "PSV Transactions"). As of the PSV Appendix Effective Date, any and all future Individual Contracts between the Parties that constitute PSV Transactions shall be automatically subject to the General Agreement, as it is modified, supplemented and amended by this PSV Appendix, without further action by the Parties, unless the agreed upon terms of such Individual Contract expressly provide that it shall not be subject to this PSV Appendix. For all other types of Individual Contracts, the General Agreement shall remain unchanged. In the event of any inconsistency between the General Agreement and this PSV Appendix, this PSV Appendix will prevail for purposes of all PSV Transactions.

APPENDICE PSV

Le disposizioni dell'Accordo Quadro sono modificate ed integrate secondo quanto previsto di seguito:

Parte I: Disposizioni Generali

1. Manuale PSV ed Incorporazione dei Termini ivi Definiti

I termini utilizzati nella presente Appendice PSV e non definiti altrimenti nella stessa o nell'Accordo Quadro assumono il significato ad essi attribuito (o nella loro traduzione italiana) nel Manuale PSV. Per facilità di riferimento, la versione inglese della presente Appendice PSV comprende riferimenti in corsivo e virgolettati alla terminologia in lingua italiana impiegata nel Manuale PSV alla data di redazione della presente Appendice PSV (versione 1.0). Qualora versioni più recenti o modifiche del Manuale PSV impiegassero una terminologia differente, i termini di cui alla presente Appendice PSV saranno eliminati o interpretati come riferimento ai differenti termini utilizzati nella versione attuale del Manuale PSV.

Ai fini della presente Appendice PSV e di tutte le Operazioni PSV, come definite al successivo Articolo 2, il Gestore della Rete rilevante è SRG.

2. Applicazione della presente Appendice PSV

La presente Appendice PSV all'Accordo Quadro (comprensiva degli Allegati alla stessa) modifica, rettifica ed integra, nei limiti di quanto previsto, alcune disposizioni dell'Accordo Quadro (che, ai sensi del § 1.1 (*Oggetto del Contratto*) dell'Accordo Quadro, inclusi gli Allegati, Appendici e il Documento di Personalizzazione) e, insieme all'Accordo Quadro, salvo diversa disposizione contenuta nella presente Appendice PSV con riferimento alle Operazioni Precedenti alla PSV, si applicherà a e disciplinerà tutti i Contratti Individuali stipulati tra le Parti che costituiscano Operazioni PSV relativamente alla consegna ed accettazione di Gas Naturale al PSV (ciascuno di tali Contratti Individuali un'"Operazione PSV" e, collettivamente, le "Operazioni PSV"). Alla Data di Efficacia dell'Appendice PSV, ogni futuro Contratto Individuale tra le Parti che costituisca un'Operazione PSV sarà automaticamente assoggettato all'Accordo Quadro, come modificato, integrato e rettificato dalla presente Appendice PSV, senza ulteriore atto delle Parti, salva l'ipotesi in cui nel Contratto Individuale sia previsto che il medesimo non sia assoggettato alla presente Appendice PSV.

In the event of any inconsistency between the terms of a PSV Transaction (whether evidenced in a Confirmation or otherwise) and the provisions of either this PSV Appendix or the General Agreement (as amended by this PSV Appendix), the terms of the PSV Transaction shall prevail for the purposes of that PSV Transaction.

3. Confirmations

For the purposes of PSV Transactions, § 3.2 (*Confirmations*) of the General Agreement shall be amended by deleting the reference in the last line to “Annex 2a – d” and replacing it with “Annex 2 PSV(A) – Annex 2 PSV(D)” which are attached to this PSV Appendix and shall be added to the General Agreement for use in PSV Transactions.

4. Schedule

The definition of “Schedule” found in § 4.2 (*Definition of Schedule and Applicable Code*) of the General Agreement shall be amended by adding the following at the end thereof:

“For the purposes of PSV Transactions, a Party’s obligations to Schedule shall include, without limitation, compliance with all obligations and requirements set out in both the PSV Manual and the PSV Contract, provided that until the PSV System operates on a “matching system” basis: (i) the Seller shall issue the Transaction (*emettere l’Operazione*) with respect to the relevant PSV Transaction not later than thirty (30) minutes before the applicable Time Limit; and (ii) provided that the Seller has issued the Transaction (*emettere l’Operazione*) not later than the deadline set out in § 4.2(i) above, the Buyer shall accept the Transaction (*accettare l’Operazione*) with respect to such PSV Transaction not later than the applicable Time Limit. The Parties shall co-operate in good faith for the performance of the respective Scheduling obligations. To this end: (A) the Parties shall promptly inform each other of errors or delays; and (B) if the Seller has not issued the Transaction (*emettere l’Operazione*) by the deadline set out in § 4.2(i) above, the Buyer shall use its reasonable endeavour to accept it (*accettare l’Operazione*). For the avoidance of doubt, the Parties acknowledge and agree that a Party’s obligations to Schedule in respect of a single PSV Transaction may involve the issuance of more than one Transaction (*emissione di un’Operazione*) within the meaning of the PSV Manual, to the extent that the Total Supply Period of that PSV Transaction exceeds the maximum operational period of the PSV System.”

Per tutti gli altri tipi di Contratti Individuali, L’Accordo Quadro rimane invariato. In caso di difformità tra l’Accordo Quadro e la presente Appendice PSV, quest’ultima prevarrà ai fini di tutte le Operazioni PSV. In caso di difformità tra le disposizioni di un’ Operazione PSV (indipendentemente dalla riproduzione in una Conferma o altrimenti) e le disposizioni della presente Appendice PSV o dell’Accordo Quadro (come modificato dalla presente Appendice PSV), le disposizioni dell’Operazione PSV prevarranno ai fini di tale Operazione PSV.

3. Conferma

Ai fini delle Operazioni PSV, il § 3.2 (*Conferme*) dell’Accordo Quadro è modificato con l’eliminazione del riferimento all’“Allegato 2 a – d” e sostituito con “Allegato 2 PSV (A) – Allegato 2 PSV (D)” allegati alla presente Appendice PSV e che saranno aggiunti all’Accordo Quadro ai fini delle Operazioni PSV.

4. Programmare

La definizione di “Programmare” di cui al § 4.2 (*Definizione di Programmare e Codice Applicabile*) dell’Accordo Quadro è modificata con la seguente integrazione in calce alla medesima disposizione:

“Ai fini delle Operazioni PSV, le obbligazioni di Programmare a carico di una Parte comprendono, a titolo esemplificativo, il rispetto di tutte le obbligazioni e i requisiti di cui al Manuale PSV e al Contratto PSV, fermo restando che sino a quando il Sistema PSV non opererà sulla base di un “sistema di *matching*”: (i) il Venditore dovrà emettere l’Operazione con riferimento alla relativa Operazione PSV non oltre 30 (trenta) minuti prima dell’Orario Limite applicabile e (ii) qualora il Venditore non abbia emesso l’Operazione oltre il termine di cui al precedente § 4.2(i), l’Acquirente dovrà accettare l’Operazione con riferimento alla relativa Operazione PSV non oltre l’Orario Limite applicabile. Le Parti collaboreranno in buona fede per l’adempimento delle rispettive obbligazioni di Programmazione. A tal fine: (A) ciascuna Parte dovrà informare tempestivamente l’altra di errori o ritardi; e (B) qualora il Venditore non abbia emesso l’Operazione entro il termine di cui al precedente § 4.2(i), l’Acquirente dovrà compiere ogni ragionevole tentativo di accettare l’Operazione. A fini di chiarimento, le Parti riconoscono e concordano che le obbligazioni di Programmare a carico di una Parte con riferimento ad una singola Operazione PSV possono comportare l’emissione di più di un’Operazione nei termini di cui al Manuale PSV, qualora il Periodo di Somministrazione Complessivo di tale Operazione PSV superi il periodo operativo massimo del Sistema PSV.”

5. Measurement of Natural Gas Deliveries and Receipts

For the purposes of § 6.4 (*Measurement of Natural Gas Deliveries and Receipts*), the data set out in the Transactions File (*Archivio Operazioni*) of the PSV System in respect of a Time Unit shall be deemed to be an allocation statement from the relevant Network Operator for PSV Transactions whose Total Supply Periods contain that Time Unit.

6. Seller and Buyer Risk

For the purposes of PSV Transactions, § 6.7(a) (*Seller and Buyer Risk*) shall apply but after the word “including” in the third line of 6.7(a), the following words shall be added:

“the unit varying charge (*corrispettivo unitario variabile - CV*) and the additional charge (*corrispettivo integrativo - CV^P*) within the meaning of articles 8.1 and 13 of the *Autorità per l'energia elettrica e il gas* Deliberation No. 166/05 of July 29, 2005, and”.

7. Force Majeure

For the purposes of a PSV Transaction, § 7 (*Non-Performance Due to Force Majeure*) of the General Agreement shall apply but with the deletion of the words:

“unless this constitutes a Transportation Failure” from § 7.1 (*Definition of Force Majeure*).

Furthermore, where the relevant Network Operator either suspends the PSV Systems' service, or restricts the access thereto under the PSV Contract, and this results in the Claiming Party being unable to fulfill in whole or in part any of its contractual obligations under a PSV Transaction, and such act by the relevant Network Operator has not been caused in whole or in part by the Claiming Party, then this shall constitute a Force Majeure event with respect to that PSV Transaction.

8. Remedies for Failure to Deliver or Accept the Contract Quantity

8.1 For any PSV Transaction in which Unit Values have been agreed, unless the Parties provide otherwise in such agreement, Option B below shall apply in respect of remedies for failure to deliver or accept the Contract Quantity. In all other cases, Option A shall apply.

OPTION A:

§§ 8.1 to 8.3 (*Underdelivery, Under Acceptance and Overdelivery*) shall apply as written in the General Agreement.

OPTION B:

5. Misurazione delle Consegne e Ricezioni di Gas Naturale

Ai fini del § 6.4 (*Misurazione delle Consegne e delle Ricezioni di Gas Naturale*), i dati dell'Archivio Operazioni del Sistema PSV relativamente ad un'Unità di Tempo dovranno considerarsi come dichiarazione di allocazione dal relativo Operatore di Rete per le Operazioni PSV i cui Periodi di Somministrazione Complessivi includono la medesima Unità di Tempo.

6. Rischi del Venditore e dell'Acquirente

Ai fini delle Operazioni PSV, si applicherà il § 6.7(a) (*Rischi del Venditore e dell'Acquirente*) ma dopo la parola “inclusi” al terzo rigo del § 6.7(a), saranno aggiunte le seguenti parole:

“il corrispettivo unitario variabile – CV e il corrispettivo integrativo CV^P come definiti agli articoli 8.1 e 13 della Delibera dell'Autorità per l'energia elettrica e il gas n. 166/05 del 29 luglio 2005, e”.

7. Forza Maggiore

Ai fini delle Operazioni PSV, si applicherà il § 7 (*Inadempimento per Causa di Forza Maggiore*) dell'Accordo Quadro ma con l'eliminazione dell'inciso:

“salvo qualora ciò costituisca un Impedimento di Trasporto” dal § 7.1 (*Definizione di Forza Maggiore*).

Inoltre, qualora il competente Gestore della Rete sospenda il servizio del Sistema PSV o ne limiti l'accesso ai sensi del Contratto PSV e ciò comporti che la Parte Richiedente sia impossibilitata ad adempiere in tutto o in parte alle proprie obbligazioni contrattuali ai sensi dell'Operazione PSV e l'azione del competente Gestore della Rete non sia stata causata in tutto o in parte dalla Parte Richiedente, ciò costituirà un evento di Forza Maggiore con riferimento all'Operazione PSV.

8. Rimedi in caso di Mancata Consegna o Accettazione della Quantità Contrattuale

8.1 Per ogni Operazione PSV rispetto alla quale le Unità di Valore siano state concordate, salvo che sia altrimenti previsto dalle Parti in tale accordo, la successiva Opzione B si applicherà con riferimento ai rimedi in caso di mancata consegna o accettazione della Quantità Contrattuale. In tutti gli altri casi, si applicherà l'Opzione A.

OPZIONE A:

I §§ da 8.1 a 8.3 (*Consegna in difetto, Accettazione in Difetto e Consegna in Eccesso*) si applicheranno così come redatti nell'Accordo Quadro.

OPZIONE B:

§§ 8.1 to 8.3 (*Underdelivery, Under Acceptance and Overdelivery*) shall be deleted and replaced as follows (provided however, that if any of the unit values under § 8.1(a), § 8.2(a) or § 8.3 has not been specified in the relevant Individual Contract, § 8.1, § 8.2 or § 8.3, as the case may be, shall apply as written in the General Agreement for the purposes of that Individual Contract):

“§ 8.1 **Underdelivery:** If, in respect of a Time Unit and a PSV Transaction, the Contract Quantity exceeds the Delivered Quantity by reason of Seller’s Default, the Seller shall pay to the Buyer as liquidated damages (*penale*) an amount equal to the product of:

- (a) the unit value specified in the Individual Contract; and
- (b) the Default Quantity,

provided however that the Buyer shall be obliged to accept the lower Delivered Quantity.

§ 8.2 **Under Acceptance:** If, in respect of a Time Unit and a PSV Transaction, the Delivered Quantity is equal to zero (0) by reason of Buyer’s Default, the Buyer shall pay to the Seller as liquidated damages (*penale*) an amount equal to the product of:

- (a) the unit value specified in the Individual Contract; and
- (b) the Contract Quantity.

§ 8.3 **Overdelivery:** If, in respect of a Time Unit and a PSV Transaction, the Transaction is issued (*Operazione emessa*) for a quantity which exceeds the Contract Quantity by reason of Seller’s Default, unless both Parties have agreed to such higher quantity (in which case the PSV Transaction shall be deemed as consequently amended), then (A) the Buyer shall refuse the Transaction (*rifiutare l’Operazione*), (B) the Delivered Quantity shall be deemed equal to zero (0) and (C) the Seller shall pay to the Buyer as liquidated damages (*penale*) an amount equal to the product of:

- (a) the unit value specified in the Individual Contract; and
- (b) the absolute value of the Default Quantity.”

8.2. For the purposes of PSV Transactions, the provisions of § 8.4 (*Overacceptance*) shall not apply.

8.3. For the purposes of PSV Transactions, the Tolerance will be zero.

9. Off-Spec Gas

For the purposes of PSV Transactions the provisions of § 8a (*Off-Spec Gas*) shall not apply.

10. Annex 1 – Defined Terms

For the purposes of all PSV Transactions, Annex 1 of this General Agreement shall be amended by:

10.1 the insertion of the following definitions:

I §§ da 8.1 a 8.3 (*Consegna in difetto, Accettazione in Difetto e Consegna in Eccesso*) saranno eliminati e sostituiti come segue (fermo comunque restando che se alcune delle unità di valore di cui ai § 8.1(a), § 8.2(a) o § 8.3 non sia stata specificata nel relativo Contratto Individuale, i § 8.1, § 8.2 o § 8.3, di volta in volta applicabili, si applicheranno come redatti nell’Accordo Quadro ai fini di tale Contratto Individuale):

“§ 8.1 **Consegna in Difetto:** Qualora, con riferimento ad un’Unità di Tempo ed un’Operazione PSV, la Quantità Contrattuale ecceda la Quantità Consegnata a causa dell’Inadempimento del Venditore, il Venditore dovrà corrispondere all’Acquirente una penale di importo pari al prodotto:

- (a) dell’unità di valore specificata nel Contratto Individuale per
- (b) la Quantità in Difetto,

fermo comunque restando che l’Acquirente sarà obbligato ad accettare la minore Quantità in Difetto.

§ 8.2 **Accettazione in Difetto:** Qualora, con riferimento ad un’Unità di Tempo e un’Operazione PSV, la Quantità Consegnata sia uguale a 0 (zero) a causa dell’Inadempimento dell’Acquirente, l’Acquirente dovrà corrispondere al Venditore una penale di importo pari al prodotto:

- (a) dell’unità di valore specificata nel Contratto Individuale per
- (b) la Quantità Contrattuale.

§ 8.3 **Consegna in Eccesso:** Qualora, con riferimento ad un’Unità di Tempo e un’Operazione PSV, l’Operazione sia emessa per una quantità che ecceda la Quantità Contrattuale a causa dell’Inadempimento del Venditore, a meno che entrambe le Parti abbiano accettato tale maggiore quantità (nel qual caso l’Operazione PSV sarà considerata conseguentemente modificata), (A) l’Acquirente rifiuterà l’Operazione, (B) la Quantità Consegnata sarà considerata pari a 0 (zero) e (C) il Venditore dovrà corrispondere all’Acquirente una penale di importo pari al prodotto:

- (a) dell’unità di valore specificata nel Contratto Individuale per
- (b) il valore assoluto della Quantità in Difetto.”

8.2. Ai fini delle Operazioni PSV, non si applicheranno le disposizioni del § 8.4 (*Accettazione in Eccesso*).

8.3. Ai fini delle Operazioni PSV, la Soglia di Tolleranza sarà pari a 0 (zero).

9. Gas Fuori Specifica

Ai fini delle Operazioni PSV, non si applicheranno le disposizioni del § 8a (*Gas Fuori Specifica*).

10. Allegato 1 – Definizioni

Ai fini di tutte le Operazioni PSV, l’Allegato 1 dell’Accordo Quadro si intende modificato con:

10.1 l’inserimento delle seguenti definizioni:

- 10.1.1. “PSV” means *Punto di Scambio Virtuale*, the virtual point established by the relevant Network Operator and located between the entry points and the exit points of the national transportation network (*Rete nazionale di gasdotti*) where shippers may exchange and sell natural gas;
- 10.1.2. “PSV Contract” means the Conditions for the use of the gas exchange/sale system at the PSV (“*Condizioni per l'utilizzo del sistema per scambi/cessioni di gas al Punto di Scambio Virtuale*”) established by the relevant Network Operator and adhered to by each Party through the completion and signing of the relevant adherence form (*modulo di adesione*) and other ancillary form and documents required by the relevant Network Operator;
- 10.1.3. “PSV Manual” means the manual issued by the relevant Network Operator for the use of the PSV System;
- 10.1.4. “PSV System” means the computerised platform set up by the relevant Network Operator denominated *Sistema per scambi/cessioni di Gas al Punto di Scambio Virtuale* for the exchange and sale of Natural Gas at the PSV;
- 10.1.5. “PSV Transaction” has the meaning set out in Clause 2 of this PSV Appendix;
- 10.1.6. “SRG” means Snam Rete Gas S.p.A., or any successor Entity from time to time;
- 10.1.7. “Time Limit” means Time limit (*Orario limite*) within the meaning of the PSV Manual and which may be either the time defined as “Nomination Closure” (“*Fine nomina*”) for first session (*1° sessione*) PSV Transactions or the time defined as “Re-nomination Closure” (“*Fine Rinomina*”) for second session (*2° sessione*) PSV Transactions;
- 10.1.8. “Unit Values” means the various monetary values agreed on an individual basis from time to time by the Parties for the purposes of § 8.1 (*Underdelivery*), § 8.2 (*Under Acceptance*) and § 8.3 (*Overdelivery*) of the General Agreement and expressed either as a percentage of the Contract Price or as a Euro/GJ amount;
- and
- 10.2. by the amendment of the following definition:
- “Time Unit” means, in respect of a PSV Transaction, one gas day (*Giorno-gas*) within the meaning of the PSV Manual (unless otherwise agreed by the Parties).

ADDITIONAL PROVISIONS / AMENDMENTS TO THE PSV APPENDIX

1. This PSV Appendix is entered into in two languages: English and Italian. In the event of any dispute relating to the interpretation thereof, the English version shall prevail.

To be executed by Parties that checked and completed

- 10.1.1. “PSV” significa *Punto di Scambio Virtuale*, il punto virtuale stabilito dal competente Operatore di Rete e situato tra i punti di ingresso e di uscita della Rete nazionale di gasdotti dove i grossisti possono scambiare e vendere gas naturale;
- 10.1.2. “Contratto PSV” significa le Condizioni per l'utilizzo del sistema per scambi/cessioni di gas al Punto di Scambio Virtuale stabilite dal competente Gestore della Rete e a cui ciascuna Parte ha aderito mediante la compilazione e la sottoscrizione del relativo modulo di adesione e degli altri moduli e documenti complementari richiesti dal competente Gestore della Rete;
- 10.1.3. “Manuale PSV” significa il manuale predisposto dal competente Gestore della Rete per l'utilizzo del Sistema PSV;
- 10.1.4. “Sistema PSV” significa la piattaforma informatica realizzata dal competente Operatore di Rete denominata *Sistema per scambi/cessioni di Gas al Punto di Scambio Virtuale* per gli scambi e cessioni di Gas Naturale al PSV;
- 10.1.5. “Operazione PSV” ha il significato di cui all'Articolo 2 della presente Appendice PSV;
- 10.1.6. “SRG” significa Snam Rete Gas S.p.A., o qualsiasi soggetto che a questi possa eventualmente succedere;
- 10.1.7. “Orario Limite” indica l'Orario limite nei termini di cui al Manuale PSV e che può essere sia l'orario definito come Fine nomina per la 1° sessione delle Operazioni PSV, sia l'orario definito come Fine Rinomina, per la 2° sessione delle Operazioni PSV;
- 10.1.8. “Unità di Valore” indica i diversi valori monetari di volta in volta concordati dalle Parti su base individuale ai fini dei § 8.1 (*Consegna in difetto*), § 8.2 (*Accettazione in Difetto*) e § 8.3 (*Consegna in Eccesso*) dell'Accordo Quadro ed espressi sia come percentuale del Prezzo Contrattuale sia come importo Euro/GJ;

e

- 10.2. la modifica della seguente definizione:

“Unità di Tempo” indica, con riferimento ad un'Operazione PSV, un Giorno-gas nei termini del Manuale PSV (salvo se diversamente concordato tra le Parti).

ULTERIORI PREVISIONI / MODIFICHE ALL'APPENDICE PSV

1. La presente Appendice PSV è stipulata in due lingue: inglese e italiano. In caso di qualsiasi disputa in merito all'interpretazione della medesima, prevadrà la versione in lingua inglese.

Da sottoscrivere a cura delle Parti che hanno

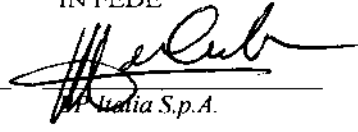
IN WITNESS whereof this PSV Appendix has been duly executed by the duly authorized representative(s) of each Party on the respective dates set out below with effect from the PSV Appendix Effective Date.

La presente Appendice PSV è stata debitamente sottoscritta dai rappresentanti debitamente autorizzati di ciascuna Parte nelle date rispettivamente indicate di seguito con efficacia dalla Data di Efficacia dell'Appendice PSV.

IN FEDE


Bp Italia S.p.A.

[Name of Party]


Bp Italia S.p.A.

[Nome della Parte]

Marco Candoloro
[Name of Signatory/ies]

[Name of Signatory/ies]

Marco Candoloro
[Nome del Firmatario/i]

[Nome del Firmatario/i]

Head of Gas, Italy
[Title of Signatory/ies]

[Title of Signatory/ies]

Head of Gas, Italy
[Funzione del Firmatario/i]

[Funzione del Firmatario/i]

ASSIGNMENT AND NOVATION AGREEMENT

THIS AGREEMENT made as of the _____ day of _____ 2012 between:

BP ITALIA S.P.A., a company incorporated and existing under the laws of Italy with registered office in Milan at Via A. Cechov 50/2 – 20151 Milan, Fiscal Code, VAT Code and registration with the Registry of Enterprises of Milan number 01144480587 (the "**Assignor**"); and

BP ENERGY EUROPE LIMITED, a company incorporated and existing under the laws of Scotland with registered office at 1 Wellheads Avenue, Dyce, Aberdeen, AB21 7PB, registered under the Registry of Enterprises of Milan with number 07777560967 (the "**Assignee**") with an Italian Branch having registered office at Via A. Cechov 50/2 – 20151 Milan (the "**Assignee Branch**"); and

[**INSERT NAME OF RELEVANT COUNTERPARTY**] a company incorporated and existing under the laws of [] with registered office at [], Fiscal Code, VAT Code and registration with the Registry of Enterprises of [] number [] (the "**Counterparty**")

each a "**Party**" together the "**Parties**".

WHEREAS:

- A. The Assignor and Counterparty are the current parties to a European Federation of Energy Traders General Agreement Concerning The Delivery and Acceptance of Natural Gas dated [] (the "**EFET**") and certain transactions for the sale and purchase of natural gas governed by the EFET (the "**Transactions**" and each a "**Transaction**");
- B. As part of an internal reorganisation of its affiliated group of companies, the Assignor is to transfer its natural gas marketing business in Italy to the Assignee on a date to be agreed;
- C. As part of such business transfer the Assignor wishes to assign, transfer and novate all of its rights, liabilities, duties and obligations under and in respect of the EFET to the Assignee (an affiliate of the Assignor) and all Transactions to the Assignee's Branch and Counterparty wishes to waive any rights that it may have against the Assignor under and in respect of the EFET and the Transactions and to agree to such novation on the terms and conditions set out below;
- D. [Assignor is currently the beneficiary of a guarantee from [insert Counterparty guarantor name] (the "**Counterparty Guarantor**") with respect to certain obligations of the Counterparty under the EFET and the Transactions (the "**Existing Counterparty Guarantee**") and wishes to release and discharge the Counterparty Guarantor from its obligations under the Existing Counterparty Guarantee and to have the Existing Counterparty Guarantee replaced with a new guarantee from the

Counterparty Guarantor with respect to the Counterparty's obligations under the EFET and the Transactions (the "**Replacement Counterparty Guarantee**").]

THEREFORE, in consideration of the mutually beneficial terms, conditions and covenants contained in this agreement, the Parties agree as follows:

DEFINITIONS AND INTERPRETATION

1. For the purposes of this agreement the terms set out below shall have the following meanings:
 - (a) "**Effective Date**" means the first day of a calendar month as notified to the Counterparty by Assignor with at least thirty (30) days written notice prior to such date; and
 - (b) "**Effective Time**" means 0600 hours Central European Time on the Effective Date.
2. The headings used in this agreement shall not affect its interpretation.

ASSIGNMENT AND NOVATION

3. With effect from the Effective Time:
 - (a) the Assignor assigns and transfers the EFET to the Assignee and the Transactions to the Assignee's Branch;
 - (b) the Assignee accepts the assignment of and agrees to assume all of the rights, liabilities, duties and obligations of the Assignor under the EFET and the Transactions whenever created and incurred and to be bound by their terms and conditions in place of the Assignor on the basis as if the Assignee was the original party to the EFET and that the Transactions were entered into by the Assignee's Branch; and
 - (c) the Counterparty acknowledges and agrees to the assignment, transfer and novation of the EFET and the Transactions and agrees to perform all of its duties and obligations under the EFET and the Transactions and to be bound by all of their terms and conditions in every way as if the Assignee were the original party to the EFET and that the Transactions were entered into by the Assignee's Branch.
4. The Parties agree that if the Assignor gives written notice to the Counterparty that the Effective Date will not occur or if the Assignor does not provide the Counterparty with the notice contemplated in the definition of "Effective Date" on or before [30 June 2013] this agreement shall lapse and be of no force and effect.

RELEASE AND DISCHARGE

5. With effect from the Effective Time:

- (a) the Assignor and the Counterparty each release and discharge each other from the performance of all future obligations and covenants under or in connection with the EFET and the Transactions;
- (b) the Assignor and the Counterparty each release and forever discharge the other from all claims and demands under or in connection with the EFET and the Transactions whether arising before, on or after the Effective Time; and
- (c) the Assignee and the Counterparty each acknowledge and agree that the other shall have the right to enforce the EFET and, in the case of the Assignee acting through the Assignee's Branch, the Transactions and pursue all claims and demands whatsoever (future or existing) arising out of or in connection with the EFET and the Transactions whether arising prior to, on or subsequent to the Effective Time.

SHIPPING CODES

6. Assignor shall provide to the Counterparty any new shipping codes necessary for the receipt or delivery of natural gas under the EFET and the Transactions as soon as reasonably practicable before the Effective Date.

AMENDMENTS TO EFET

7. The EFET shall be amended in accordance with the terms set out in Appendix 1 [solely to reflect the fact that the Assignee is a Scottish incorporated company rather than an Italian incorporated company like the Assignor and that it operates in certain countries by means of a registered branch]. Save as set out in Appendix 1 and as otherwise provided in this agreement, the EFET and all Transactions shall remain unamended and in full force and effect.

GUARANTEE

8. As at the Effective Time, the Assignor hereby releases and forever discharges the Counterparty Guarantor from any and all obligations and liabilities (including all actions, suits, debts, claims, costs and causes of action which Assignor may now or in the future have) under or in relation to the Existing Counterparty Guarantee (whether past, present or future, actual or contingent, known or unknown or otherwise) and every right, claim and interest of Assignor in, to and under the Existing Counterparty Guarantee shall, at the Effective Time, accordingly be terminated, extinguished and be of no further force or effect.
9. The Parties agree that the release and discharge effected by paragraph 8 above (but not for the avoidance of doubt any failure to provide the Replacement Counterparty Guarantee in accordance with paragraph 10 below) shall not constitute an event of default, termination event or any other event under the EFET or any Transaction which may (including after the giving of notice of the expiry of any grace period or both) give the relevant Party the right to close out the EFET or any Transactions.
10. The Counterparty shall procure by no later than the Effective Time that the Counterparty Guarantor will have issued a Replacement Counterparty Guarantee in favour of the Assignee in identical terms to the Existing Counterparty Guarantee, guaranteeing all existing Transactions and future transactions to be entered into by the

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Assignee and the Counterparty pursuant to the EFET except that it shall provide for the Replacement Counterparty Guarantee to be effective from the Effective Time as defined in this agreement. Failure to provide such a Replacement Counterparty Guarantee before the Effective Time shall be deemed to be a Material Reason for the purposes of Section 10 of the EFET.

REPRESENTATIONS

11. Each Party hereby represents to the other that, as at the date of this agreement and as at the Effective Time that:
- (a) it is duly organised and validly existing under the laws of the jurisdiction of its incorporation;
 - (b) it has the power, right and authority to execute, deliver and to perform its obligations under this agreement and has taken all necessary actions to authorise such execution and performance; and
 - (c) its obligations hereunder constitute its legal, valid and binding obligations enforceable against it in accordance with their terms (subject to applicable bankruptcy or similar laws affecting creditors' rights).

MISCELLANEOUS

12. The Assignor and the Assignee shall, from time to time, without further consideration, do and perform all further acts and execute and deliver all further assignments, notices, releases and other documents and instruments as may reasonably be required to fully effect or maintain this agreement.
13. This agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and assigns.
14. Any notices to be made or given under this agreement shall be made in writing and sent by hand, courier, recorded or registered post or facsimile:

to the Assignor and/or Assignee at the address and facsimile number below:

Attn: Marco Candeloro
Via A. Cechov 50/2,
20151 Milan,
Italy
Facsimile Number: 02 3344 5550

to the Counterparty at the address and facsimile number below:

[]

Any notice given to a Party in accordance with this agreement shall be deemed to have been received by that Party as follows:

- (a) if delivered by any form of courier (including by hand) or sent by recorded or registered postal delivery: if delivered during business hours on a working day in the country of receipt, when delivered; if not delivered during business

hours on a working day 0900 hours local time on the next such working day;
and

- (b) if sent by facsimile: when confirmation of transmission to and receipt by the facsimile machine of the receiving Party is received by the facsimile machine of the sending Party.
15. This agreement and all matters arising out of or in connection with it (whether such disputes are contractual or non contractual in nature, such as claims in tort (for breach of statute or regulation or otherwise)) shall be governed by and construed in accordance with English law and the Parties hereby submit to the exclusive jurisdiction of the English Courts.
16. This agreement may be executed in one or more counterparts, each of which, taken together, shall form one and the same agreement and any Party may enter into this agreement by executing a counterpart.

IN WITNESS WHEREOF, the Parties have executed this agreement, as of the date first set out above.

BP ITALIA S.P.A.

By: Marco Candeloro

Title: Head of Gas, Italy



BP ENERGY EUROPE LIMITED

By: _____

Title: _____

[INSERT COUNTERPARTY NAME]

By: _____

Title: _____

APPENDIX 1

Amendments to EFET

Terms not otherwise defined in this Appendix 1 shall have the same meaning given to them in the EFET. The following amendments to the EFET are agreed between the Parties:

- (i) A new §1.3 shall be inserted after §1.2 to read as follows:
“Party B acknowledges that Party A operates in certain countries through registered branches and that, accordingly, it may enter into Individual Contracts with a Delivery Point in such countries through its relevant branch.”
- (ii) In new §10.5 Withdrawal, the following sentence “exclusively for the time it is an Italian company,” shall be inserted after “Party A”.
- (iii) In §13.1 the word "address" in the first line shall be replaced by the word "addresses".
- (v) In §13.3 Payment Netting the following sentence “ and provided further that in respect of an Individual Contract that has been entered into by a registered branch of Party A, §13.3 shall apply only in respect of other Individual Contracts entered into by such branch of Party A ,” shall be added at the end.
- (vi) At the end of §21 Representation and Warranties the following sentence is inserted
“In addition to the above, Party A warrants that, if Individual Contracts are entered into by one of its registered branches, such branch is duly registered, validly existing and in good standing under the laws of its registration.”
- (vii) §23.2 Notices, Invoices and Payments, relating to Party A, shall be deleted and replaced in its entirety as follows, as the case may be:

(a) TO PARTY A:	BP Energy Europe Limited
Notices & Correspondence	
Address:	20 Canada Square, London E14 5NJ
Telephone No:	+44 (0)20 794 85813
Fax No:	+44(0) 203 107 0801
Attention	Contracts Manager With a copy of <u>notices and correspondence</u> only to IST Legal on fax number +44 207 948 7894
Payments	As notified by Party A from time to time (including as set out in the relevant invoice).

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Confirmations, Invoices and Settlements	BP Energy Europe Limited
Address:	20 Canada Square, London E14 5NJ
Fax No:	+ 44 (0) 203 107 0818
Attention:	GTEL Financial Operations
Payments	As notified by Party A from time to time (including as set out in the relevant invoice).

In the event Individual Contracts are entered by Party A through its Italian registered branch, the present 23.2, relating to Party A, shall apply as follows:

(a) TO PARTY A, ITALIAN BRANCH:	
Notices & Correspondence	BP Energy Europe Limited Italian Branch
Address:	Via A. Cechov 50/2 – 20151 Milan
Telephone No:	+39 02 33 44 55 10
Fax No:	+39 02 33 44 55 10
Email:	gasbpitalia@bp.com licia.gazzola@bp.com pierpaolo.citro@bp.com
Attention	Head of Gas & Power, Italy
Payments	[Insert bank account details]
Confirmations, Invoices and Settlements	BP Energy Europe Limited Italian Branch
Address:	Via A. Cechov 50/2 – 20151 Milan
Telephone No:	+39 02 33 44 55 10
Fax No:	+39 02 33 44 55 10
Email:	gasbpitalia@bp.com lidia.esposito@bp.com cristina.cassanmagnago@bp.com
Attention:	Head of Gas & Power, Italy

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EFET

European Federation of Energy Traders

ANNEX 2 PSV (B)
to the
General Agreement
ALLEGATO 2 PSV (B)
all'Accordo Quadro

CONFIRMATION OF INDIVIDUAL CONTRACT FOR PSV TRANSACTIONS ON GME PLATFORM
(FLOATING PRICE)
CONFERMA DEL CONTRATTO INDIVIDUALE PER LE OPERAZIONI PSV SULLA PIATTAFORMA GME
(PREZZO VARIABILE)

BETWEEN/ TRA:

- (1) BP Italia S.p.A. ("Seller"/"Venditore"); and/e
(2) _____ ("Buyer"/ "Acquirente").

concluded on/stipulato il [/ /], [:] hours/ore

Delivery Point/Punto di Consegna: PSV

- (a) INTRA SYSTEM
(b) Relevant System/ Sistema Rilevante SRG transmission grid/ Rete di gasdotti
SRG

:

Contract Quantity/ Quantità Contrattuale: [] GJ

Time Unit/ Unità di Tempo: Gas-Day (*Giorno-gas*) within the meaning of the PSV Manual/
Giorno-gas come definito nel Manuale PSV

Total Supply Period/ Periodo di Somministrazione Complessivo:

From/dalle 06:00 hours on/del 01/10/2011
To/alle 06:00 hours on /del 01/10/2012

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Contract Price: The Contract Price for each GJ of Natural Gas shall be calculated in Euros per GJ for the Month of delivery as follows:

$$P = P_0 + a \times ((DB/Exchange Rate) - I_0) - (0,8/Exchange Rate - 0,63667)$$

Where:

$P_0 =$ (€/GJ); (as bid on the GME Platform)

$I_0 = 59,946435$ € per barrel;

$a = 0,121131$;

DB = the average high and low means of Brent (DTD) as published in Platt's Crude Oil Market Wire over the nine (9) Months preceding the Month of delivery expressed in US \$ per barrel;

Exchange Rate = the average exchange rate of US\$ to Euros in the Month of delivery as published in "Il Sole 24Ore";

Prezzo Contrattuale: Il prezzo contrattuale per ogni GJ di gas naturale consegnato dal Venditore all'Acquirente, in accordo con il presente contratto, sarà calcolato in Euro per GJ per la consegna in ciascun Mese di consegna come segue:

$$\text{Prezzo } P = P_0 + a \times ((DB/Tasso di Cambio) - I_0) - (0,8/Tasso di Cambio - 0,63667)$$

Dove:

$P_0 =$ (C/GJ); (come negoziato sulla P-Gas)

$I_0 = 59,946435$ € al Barile;

$a = 0,121131$;

DB = la media matematica dei valori giornalieri del Brent (DTD) come pubblicati nel Platt's Crude Oil Market Wire nei nove (9) mesi precedenti il Mese di Consegna, espressi in \$ al Barile;

Tasso di Cambio = il tasso di cambio medio del US\$ con l'Euro nel Mese di consegna come pubblicato nel "Sole 24 ore";

Unit Value for the Purposes of § 8.1 (Underdelivery)/ Unità di Valore ai fini del § 8.1 (Consegna in difetto)
30% of the Contract Price/30% del Prezzo Contrattuale

Unit Value for the Purposes of § 8.2 (Under Acceptance)/ Unità di Valore ai fini del § 8.2 (Accettazione in Difetto)
50% of the Contract Price/50% del Prezzo Contrattuale

Unit Value for the Purposes of § 8.3 (Overdelivery)/ Unità di Valore ai fini del § 8.3 (Consegna in Eccesso)
30% of the Contract Price/30% del Prezzo Contrattuale

Tolerance/ Soglia di Tolleranza: 0

This Confirmation confirms the Individual Contract entered into pursuant to the EFET General Agreement Concerning the Delivery and Acceptance of Natural Gas between the Parties (General Agreement) and supplements and forms part of that General Agreement. In case of any inconsistencies between the terms of this Confirmation and the Individual Contract, please contact us immediately.

La presente Conferma conferma il Contratto Individuale stipulato tra le Parti ai sensi dell'Accordo Quadro EFET Concernente la Consegna ed Accettazione di Gas Naturale (Accordo Quadro), integra e costituisce parte di tale Accordo Quadro. In caso di difformità tra i termini della presente Conferma e quelli del Contratto Individuale, vi preghiamo di contattarci tempestivamente.

Date: _____

Signature: _____

A handwritten signature in black ink, appearing to be 'M. Quill', written over a horizontal line.

Date: _____

Signature: _____

CONDIZIONI PER L'ABILITAZIONE

Richiesta di abilitazione di un operatore al book di negoziazione di BP Italia S.p.A.

⇒ Al fine di adempiere alla **normativa internazionale in materia di prevenzione del riciclaggio dei proventi di attività criminose e di finanziamento del terrorismo** a cui il Gruppo BP è soggetto, le controparti che richiederanno l'abilitazione ad operare sul book di negoziazione di BP Italia S.p.A., devono necessariamente inviare preventivamente o contestualmente alla richiesta di abilitazione la seguente documentazione:

- **Visura ordinaria** del registro delle imprese (archivio ufficiale delle camere di commercio) o equivalenti internazionali da cui evincere le seguenti informazioni:
 - Denominazione societaria
 - Sede legale e sede operativa
 - Partita IVA (o Codice Fiscale se persona fisica) e numero iscrizione al Registro delle Imprese
 - Oggetto sociale
 - Capitale Sociale
 - Soci e titolari di diritti su quote o azioni
 - Amministratori

- Con riferimento ai **soci** (persone giuridiche) **che posseggono quote superiori al 25%**, devono essere fornite le visure ordinarie del registro delle imprese (archivio ufficiale delle camere di commercio) o equivalenti internazionali da cui evincere le informazioni di cui sopra.

- **Banca d'appoggio**
 - Denominazione di una banca d'appoggio e relativo indirizzo
 - Nome dell'intestatario del conto corrente presso tale banca

Le informazioni possono essere inviate a uno dei seguenti recapiti:

- Via fax: +39 02 3345550 o +39 02 33445200
- Via mail: gasbpitalia@bp.com e roberta.marrone@bp.com
- Via posta: BP Italia S.p.A., via Cechov 50/2, 20151 Milano

Qualora le suddette informazioni non fossero inviate, BP Italia si riserva di non abilitare il soggetto richiedente a presentare offerte di acquisto sul proprio book di negoziazione.

Milano, 20 aprile 2012



Marco Candeloro
(Head of Gas Trading, Italy)