



## **STANDARD STORAGE AGREEMENT**

**Nr. NUMBER**

**STORAGE USER NAME**

This Standard Storage Agreement (“SSA”) is entered into by and between:

- (1) **FLUXYS BELGIUM N.V./S.A.**, a company incorporated in and under the laws of Belgium, having its registered office at Avenue des Arts 31, 1040 Brussels, Belgium, registered at the Register for Legal Entities (RPR/RPM) under number 0402.954.628;

Hereinafter referred to as “**Fluxys Belgium**” or the “**Storage Operator**”;

Hereby duly represented by [●];

and:

- (2) [●], a company incorporated in and under the laws of [●], having its registered office at [●], registered at the [●] under number [●] with VAT number [●];

Referred to as the “**Storage User**”;

Hereby duly represented by [●];

Storage Operator and Storage User may hereinafter individually be referred to as a “**Party**” and collectively as the “**Parties**”.

#### **WHEREAS:**

- A. The Storage Operator owns and operates the Storage Installation of Loenhout.
- B. The Storage User wishes to have Natural Gas injected in, stored in and withdrawn from the Storage Installation.
- C. This Standard Storage Agreement has been set out in accordance with the code of conduct regarding access to the natural gas transmission network, storage installation for natural gas and LNG installation as approved by royal Decree of 23 December 2010 (the *Code of Conduct*) and has been approved by the CREG on 24 November 2011.
- D. The Storage Operator is willing to provide Storage Services in relation to the Storage Installation to the said Storage User in accordance with the terms and conditions set out in this Standard Storage Agreement.

#### **NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1. Definitions**

Unless the context requires otherwise in this Standard Storage Agreement and its attachments, the terms used in this Standard Storage Agreement and its attachments which are not defined in the Code of Conduct shall have the meaning given to them in the glossary of definitions set out in the attachment 3.

### **1.2. Interpretation**

- 1.2.1. The headings of articles shall not affect their interpretation.
- 1.2.2. Words importing a gender include every gender.
- 1.2.3. References to a '*company*' shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.2.4. References to '*person*' shall be construed so as to include any physical person, individual, firm, company, government, state or agency of a state or any joint venture, association or partnership (whether or not having separate legal personality).
- 1.2.5. Reference to any person includes references to that person's successors and permitted assignees;
- 1.2.6. Reference to a statute, by-law, regulation, rule, legislation or order is to the same as amended, modified or replaced, from time to time, and to any by-law, regulation, rule, legislation or order made thereunder.
- 1.2.7. In case an index used or referred to in this Standard Storage Agreement ceases to be available or is materially changed or affected in its content, or no longer reflects the price of the commodity it refers to at the place it refers to, or the methodology used to calculate the index is materially altered as compared to how it was calculated at the date of execution of this Standard Storage Agreement, Storage Operator shall, after having consulted the Storage User and the other Storage Users, provide an appropriate adjustment or replacement of such index in order to achieve as accurately as possible the objectives which were at the basis of the choice of the original index. Such adjustment or replacement shall apply automatically, as the case may be after the approval by the CREG.

## **2. OBJECT**

The object of this Standard Storage Agreement is to lay down the terms and conditions upon which the Storage User will be able, on and from the Start Date, to subscribe to the Storage Services in relation to the Storage Installation of Loenhout and upon which the Storage Operator shall perform said Storage Services.

## **3. CONTENTS OF THIS STANDARD STORAGE AGREEMENT**

### **3.1. GENERAL CONDITIONS**

In addition to the provisions set out in this Standard Storage Agreement, the terms and conditions applicable to this Standard Storage Agreement are set out in the general

conditions contained in attachment 2 (the *General Conditions*). By signing this Standard Storage Agreement, each of Storage Operator and Storage User agrees to be bound by all provisions set out herein and in the General Conditions.

### **3.2. SERVICES CONFIRMATIONS**

In addition to the provisions set out herein and the General Conditions, any Storage Service provided by Storage Operator under this Standard Storage Agreement shall be subject to the terms and conditions set out in the relevant Services Confirmation.

### **4. ACCESS CODE FOR STORAGE**

Any Storage Service provided by Storage Operator under this Standard Storage Agreement shall also be governed by the procedures, rules and regulations contained in the Access Code for Storage. By signing this Standard Storage Agreement, each of Storage Operator and Storage User acknowledges to be bound by and to have taken knowledge of all provisions set out in the Access Code for Storage.

### **5. STORAGE PROGRAM**

The Storage Program as approved by the CREG describes the Services which are offered by the Storage Operator and which may be subscribed by the Storage User. By signing this Standard Storage Agreement, the Storage User acknowledges to have taken knowledge of the content of the Storage Program.

### **6. MODIFICATION OF DOCUMENTS**

Without prejudice to article 16 and 18 of attachment 2 and in accordance with the Code of Conduct, the Standard Storage Agreement, the Access Code for Storage and the Storage Program may be changed from time to time. Such changes, after consultation of the market, shall apply both to existing and future installations and extensions thereof after they have been approved by the CREG and on the date of entry into force as determined by the CREG.

### **7. START DATE**

The Start Date, on which this Standard Storage Agreement will enter into force and effect, shall be [●].

**8. CONTACT DETAILS**

**8.1.** Any notice, demand, offer or other written instrument required or permitted to be given pursuant to this Standard Storage Agreement shall, in accordance with the other provisions of this agreement, be sent to:

Storage User:	<ul style="list-style-type: none"><li>- Company:</li><li>- Commercial contact:</li><li>- Administrative contact:</li><li>- Operational contact:</li></ul>
Storage User's Representative (if applicable):	<ul style="list-style-type: none"><li>- Company:</li><li>- Commercial contact:</li><li>- Administrative contact:</li><li>- Operational contact:</li></ul>
Storage Operator:	<ul style="list-style-type: none"><li>- Company:</li><li>- Commercial contact:</li><li>- Administrative contact:</li><li>- Operational contact:</li></ul>

**8.2.** Each Party may change these contact details to which notice shall be sent, or specify one additional address to which copies of notices shall be sent, in accordance with the provisions of this Standard Storage Agreement.

\* \* \*

**IN WITNESS WHEREOF**

This Standard Storage Agreement is made up in Brussels on [●] in two (2) original copies; each Party acknowledges having received one (1) original copy.

**FOR THE PARTIES:**

For and on behalf of Fluxys Belgium:

Name: \_\_\_\_\_

Function: \_\_\_\_\_

Name: \_\_\_\_\_

Function: \_\_\_\_\_

For and on behalf of the Storage User:

Name: \_\_\_\_\_

Function: \_\_\_\_\_

Name: \_\_\_\_\_

Function: \_\_\_\_\_

## ATTACHMENT 1

### SERVICES CONFIRMATIONS

(Services Confirmations to be inserted  
upon execution of such Services Confirmation)

**ATTACHMENT 2**  
**GENERAL CONDITIONS**

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## 1. DEFINITIONS

Unless the context requires otherwise, the definitions set out in the Code of Conduct apply to the Standard Storage Agreement and its attachments. Capitalized words and expressions used in these General Conditions which are not defined in the Code of Conduct shall have the meaning given to them in attachment 3 of the Standard Storage Agreement.

## 2. OPERATION AND MAINTENANCE OF THE STORAGE SYSTEM

- 2.1. The Storage Operator shall, during the term of the Standard Storage Agreement maintain, repair and replace the Storage Installation and keep said Storage Installation in good working order and condition in order to meet the Storage Services obligations hereunder, and operate the same in accordance with the provisions of the Gas Act, the Code of Conduct and other relevant national and European legislation.

The Storage Operator, acting as Reasonable and Prudent Operator, has the right to shut off or reduce the Storage Services, without any indemnity being due to the Storage User - provided the maintenance, repair or replacement work is not due to the fault or negligence of the Storage Operator - by reason of maintenance, repair or replacement works of the Storage Installation or any part thereof in accordance with the provisions of articles 174 and 176 of the Code of Conduct.

Such shut-off or reductions will be limited insofar as reasonably possible and shall only be done after prior written notice is given to the Storage User and the CREG of at least ten (10) Business Days, indicating the probable duration thereof. In case of (i) delay and/or rescheduling of notified maintenance, repair or replacement works and/or (ii) urgent maintenance, repair or replacement works, if applicable; the Storage Installation Operator shall notify the Storage User as soon as reasonably possible of such (i) delay and/or rescheduling and/or (ii) urgent works, if applicable, in which cases the prior notice period may be shorter than ten (10) Business Days in accordance with the provisions of attachments D1 and/or G of the Access Code for Storage.

The Storage Operator shall, in the case of reduction or shut-off as referred to here above, notify the Storage User, within the aforementioned period, of the Real Injection and Withdrawal Capacity during such reduction or shut-off and the Storage User shall, upon such notification, reduce or shut off its Storage Services accordingly.

The Parties shall cooperate in the planning and scheduling of any installations, maintenance, connections and disconnections of any relevant facilities so as to avoid or minimize the duration of necessary shut-off periods as well as periods of reduced capacity and to minimize disruptions to the Injection, Storage and Withdrawal of Natural Gas from the Storage Installation.

The Storage Operator shall use its reasonable endeavours to take any requests and/or remarks from the Storage User and other Storage Users into consideration when planning and executing any maintenance works.

- 2.2. The Parties shall respect and apply the Operating Procedures attached to the Access Code for Storage in attachment D1 of the Access Code for Storage.

### 3. SERVICES

- 3.1. Subject to the terms and conditions set out in the Standard Storage Agreement, the Storage Operator shall from the Service Start Date deliver the Storage Services, for the relevant service duration specified in the Services Confirmations in attachment 1 of the Standard Storage Agreement.
- 3.2. Storage Services are offered and subscribed as specified in attachment C1 and C2 of the Access Code for Storage.
- 3.3. Following Nomination and Validation, the Storage Operator shall, during each hour of the Day in compliance with the specifications of Article 8 of this attachment:
  - (i) offtake the quantities of Natural Gas made available by the Storage User at the Interconnection Point;
  - (ii) inject the quantities of Natural Gas in the Storage Installation, based upon the confirmed Nominations at the Interconnection Point for Injection of Natural Gas;
  - (iii) store these quantities of Natural Gas in the Storage Installation;
  - (iv) redeliver to the Storage User, after Withdrawal from the Gas in Storage, based upon the confirmed Nominations of Natural Gas at the Interconnection Point;
  - (v) exchange Gas in Storage, based upon the confirmed Nominations of Natural Gas, at the Commodity Transfer Point.
- 3.4. Subject to and without prejudice to the other provisions of the Standard Storage Agreement, Parties acknowledge and agree that:
  - (i) the Storage Operator may store Natural Gas of the Storage User with Natural Gas received from, inter alia, other Storage Users; and
  - (ii) the Storage Operator may redeliver Natural Gas to the Storage User as part of the commingled stream with Natural Gas redelivered to, inter alia, other Storage Users.

#### 4. SERVICES RIGHTS

- 4.1. The Storage Operator shall, subject to all terms and conditions of the Standard Storage Agreement, for each Storage Service for the period and quantities of Natural Gas set out in the Services Confirmations in attachment 1 of the Standard Storage Agreement, offtake, store and redeliver such quantities of Natural Gas, as the Storage User may require up to a maximum rate of his Real Capacities.
- 4.2. During each hour of the Service Period, total or part of the Subscribed Capacities shall be available to the Storage User as Real Capacities according to the provisions of the Standard Storage Agreement and of the Operating Procedures in attachment D1 of the Access Code for Storage. The calculation of the Real Capacity is described in the Operating Procedures, in attachment D1 of the Access Code for Storage.
- 4.3. Nominations shall be made in accordance with the Operating Procedures, in order to inject, store or withdraw quantities in/from the Storage Installation.

The Storage Operator may validate or reject such Nominations, in accordance with the Operating Procedures.

Depending on the Operating Mode and in accordance with the Operating Procedures, the Storage Operator calculates the Injection and Withdrawal Allocations and the Gas in Storage Allocations, according to the Operating Procedures in attachment D1 of the Access Code for Storage.

The Storage Operator has the right to reduce or shut off the Storage Services, in accordance with the interruption procedures in the Operating Procedures and, pursuant to Article 12.1 (a) of this attachment, with the Emergency procedure in attachment G of the Access Code for Storage.

#### 5. SERVICES FEE

##### 5.1. General

As from the Start Date, and insofar the Storage User has subscribed to Storage Services under the Standard Storage Agreement, a Total Monthly Fee shall be calculated and invoiced on a monthly basis according to the ~~Regulated~~-Tariffs in accordance with attachment B of the Access Code for Storage.

In the event of any modification to the ~~Regulated~~-Tariffs, the Total Fee provided for in this Article 5.1 shall be adapted as from the calendar day of the entering into force of the modifications.

##### 5.2. Taxes

The Total Monthly Fee due under Article 5.1 and attachment B of the Access Code for Storage is exclusive of any taxes, duties or levies of a similar nature. Without prejudice to article 16.3 (c) of this attachment, the Storage Operator is entitled to add to the amount due by the Storage User all taxes, duties or levies of a similar nature imposed on the Storage Operator by any competent authority with respect to or affecting the Storage

Services performed in favor of the Storage User by the Storage Operator under the Standard Storage Agreement (including but not limited to VAT, the levies, excise or any taxes or levies whatsoever imposed by public authorities, but excluding taxes on income, profit and share capital).

## **6. INVOICING AND PAYMENT**

6.1. As from the Start Date and insofar the Storage User has subscribed to Storage Services under this Standard Storage Agreement, the Storage Operator shall on the tenth (10th) Day of each Month (or the next Business Day if the tenth Day would be a Saturday, Sunday or public holiday) render an invoice to the Storage User showing:

- (i) the Monthly Service Fee calculated provisionally according to Article 5 of this attachment and attachment B of the Access Code for Storage to be paid by the Storage User for the Storage Services of the said Month and the Settlement fee;
- (ii) any correction on the Monthly Service Fee(s) and/or Settlement fee(s) paid by the Storage User for the previous three (3) Months and;
- (iii) any other amounts to be paid by the Storage User for the previous eighteen (18) Months.

All invoices and/or their attachments shall include a detailed calculation of the Total Monthly Fee(s), mentioning amongst others the performed Storage Services and the values of the relevant parameters and indexes (if applicable), the invoicing date, the bank account information, the payment terms (including the time of payment), the utilization rate of the Storage Services, the currency and the interest rates. Together with the invoice a detailed summary table per performed Storage Service shall be communicated, particularly including the Gas Allocations and measurement results.

6.2. Such invoices may be rendered electronically or by telefax during normal office hours.

6.3. The amounts of the invoices shall be paid in Euros at the latest on the Due Date.

In case of calculation error(s), the Storage User notifies such error to the Storage Operator at the latest on the Due Date. In such case, only the undisputed part of the invoice, including VAT, shall be paid on the Due Date. The Storage Operator shall treat the complaint within thirty (30) Business Days after receipt of such notification. In case the parties cannot come to an agreement, either party may call upon Article 19 or 20 of this attachment.

In case the Storage User disputes part or all of the invoices for reasons other than calculation error(s) the Storage User notifies such contestation to the Storage Operator at the latest on the Due Date and he shall pay the undisputed part of the invoice, including VAT, at the latest on the Due Date. The Storage Operator shall treat the complaint within thirty (30) Business Days after receipt of such notification. In case the parties cannot come to an agreement, either party may call upon Article 19 or 20 of this attachment.

Within two (2) Business Days after the above-mentioned notification, the Storage User shall pay disputed part(s) and the VAT into an Escrow Account of the Storage Operator.

- 6.4. Parties shall provide each other on time the data necessary for establishing and paying invoices.

In the event that the Storage Operator needs information from the Storage User in order to establish the invoices and the Storage User has this information available, the Storage User shall make available or shall cause to be made available this information to the Storage Operator within twenty (20) Business Days after being requested to do so by the Storage Operator.

In such case the Storage User must pay within fifteen (15) Business Days after receipt of the new invoice.

- 6.5. Without prejudice to Article 6.3 of this attachment, payment shall be deemed to have been made when the invoiced amount shall have been credited to the Storage Operator's bank account or as the case may be at the bank account specified on the invoice. If no such bank account is specified on any invoice, then payment shall be made at the last specified bank account.
- 6.6. If the invoice has not been paid on the Due Date or if the Storage User has made an undue payment in accordance with Article 6.3 of this attachment, default interest shall be due respectively by the Storage User for each Day payment is overdue or by the Storage Operator for each Day reimbursement is overdue. Said default interest shall be calculated in accordance with the EURIBOR three (3) months rate on the Due Date increased by two hundred (200) basis points.
- 6.7. Any invoice not disputed within eighteen (18) Months after the Due Date for payment shall be considered as final between the Parties.
- 6.8. At the end of the contract and each time the Storage User requests it, Storage Operator delivers a statement of account.

## **7. MEASUREMENT AND TESTING**

### **7.1. General**

The Storage User shall have the right to be represented by the Storage User's Representative with regard to the Storage User's rights concerning measurement and testing at the Interconnection Point performed by or on behalf of the Storage Operator.

All relevant details concerning measurement and testing at the Interconnection Point are laid down in the Metering and test procedures in attachment E of the Access Code for Storage on the basis of the principles set out hereinafter.

### **7.2. Standards**

The standard test methods as described in the Metering and test procedures in attachment E of the Access Code for Storage shall be used to determine compliance with the applicable specifications in the Operating Procedures in attachment D1 of the Access Code for Storage.

The applicable standards used in the context of this Access Code for Storage and its implementation shall comply with the applicable regulations.

All measurement equipment shall have as little tolerance as technically and economically justified.

The measurement and testing equipment shall be designed, operated and calibrated so that, at any time, known systematic errors can and shall be corrected. Such corrections shall be made in accordance with the provisions of the attachment E of the ACS and will be accordingly settled as provided for in attachment D1 of the ACS.

### 7.3. Unit of measurement

The unit of measurement for volume at the Interconnection Point shall be Normal Cubic Meter at reference conditions. The unit of measurement for energy at the Interconnection Point shall be kWh. The GCV shall be expressed in kWh per m<sup>3</sup>(n). The quantity of Natural Gas made available to or by the Storage Operator at the Interconnection Point shall be measured and computed by automatic equipment.

### 7.4. Equipment

The Storage Operator shall at the Interconnection Point, at its sole cost and expense, provide, maintain and operate or cause to be provided, maintained and operated all measurement and testing equipment which will be subject to applicable laws and regulations in force and relevant to the measurement and testing of Natural Gas.

### 7.5. Determination of Gross Calorific Value

The GCV shall be measured by means, which are approved under applicable regulations as described in the Metering and test procedures in attachment E of the Access Code for Storage.

### 7.6. Tests and correction of errors

The accuracy of the measurement equipment provided or caused to be provided by the Storage Operator at the Interconnection Point shall be verified by the Storage Operator at reasonable intervals as set forth in the Metering and test procedures in attachment E of the Access Code for Storage. The Storage User shall have the right to attend such verifications.

If, for any reason, meters are faulty or out of service, so that the quantity of the Natural Gas made available cannot be ascertained or computed from the reading of the meters, the Natural Gas made available during the period during which such meters are out of service or faulty shall be determined upon the basis of the best data available, using only the first feasible method of those listed hereunder in which order they appear below:

- a) by using the registration of any check measurement equipment if installed and accurately measuring;
- b) by adjusting for the error, if the extent of the error is ascertainable by calibration, test or mathematical calculation;

- c) by estimation on the basis of deliveries made during preceding periods under similar conditions when the equipment was registering accurately. For the purpose of said estimation, the parties may agree upon using data from measurements not being performed by the equipment provided under Article 7.4 of this attachment.

## **8. OPERATING CONDITIONS AND QUALITY REQUIREMENTS**

### **8.1 Switching from Operating Mode**

The decision to switch from one Operating Mode to another shall be made by the Storage Operator and in accordance with the Operating Procedures as specified in attachment D1 of the Access Code for Storage.

### **8.2. Quality Requirements for the Interconnection Point**

The Quality Requirements for the Interconnection Point are set out in attachment D2 of the Access Code for Storage.

### **8.3. Rules on compliance with the Quality Requirements set out in attachment D2 of the Access Code for Storage for the Interconnection Point Loenhout are set out in detail in the Interconnection Agreement entered into between the Storage Operator and the Transmission Operator.**

In the Interconnection Agreement the Storage Operator and the Transmission Operator shall lay down arrangements on all reasonable endeavours they shall use for harmonised Quality Requirements in order to avoid damages and to ensure the safety and good operation of the Storage Installation and Transmission Installation.

### **8.4. Injection Natural Gas at the Interconnection Point Loenhout.**

If the Transmission Operator cannot make Natural Gas available at the Interconnection Point Loenhout that is compliant with the Quality Requirements injection for the Interconnection Point Loenhout as set out in attachment D2 of the Access Code for Storage, the Storage Operator shall have the right to reduce or interrupt the Storage Services of the Storage User in accordance with attachment D1 of the Access Code for Storage.

The Storage Operator in consultation with the Transmission Operator shall use all reasonable endeavours to accept the Natural Gas at the Interconnection Point Loenhout.

Towards the Storage User the Storage Operator cannot be held liable for damages (direct or indirect) arising out the reduction or interruption.

If liability concerning Quality Requirements of the Storage User or Storage Operator is proven, Article 10 of this attachment shall apply.

#### 8.5. Withdrawal Natural Gas at the Interconnection Point Loenhout

If the Storage Operator cannot make Natural Gas available at the Interconnection Point Loenhout that is compliant with the Quality Requirements injection for the Interconnection Point Loenhout as set out in attachment D2 of the Access Code for Storage, the Transmission Operator shall have the right to reduce or interrupt the Transmission Services of the Storage User as set out in the Standard Transmission Agreement.

The Storage Operator in consultation with the Transmission Operator shall use all reasonable endeavours to let accept the Natural Gas at the Interconnection Point Loenhout.

If liability concerning Quality Requirements of the Storage User or Storage Operator is proven, Article 10 of this attachment shall apply.

### 9. WARRANTIES

#### 9.1. Mutual warranties

Each Party (in respect of itself and each of its successors and permitted assigns) warrants to the other Party (for the benefit of the other Party and each of its successors and permitted assigns) as follows:

- (a) It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation (and, if relevant under those laws, in good standing).
- (b) It has the power (i) to execute this Agreement and any other documentation relating to this Agreement to which it is a party, (ii) to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver, and (iii) to perform its obligations under this Agreement and has taken all necessary action to authorise that execution, delivery and performance.
- (c) The execution, delivery and performance referred to in paragraph (b) do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.
- (d) Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with its terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application.



## 9.2. Storage User's warranties

Storage User hereby warrants to Storage Operator that:

- (a) It has title and/or all rights to all Natural Gas delivered by it or for its account at the Interconnection Point to the Storage Operator for Storage Services hereunder, and warrants that all Natural Gas is free from all liens, claims, assessments and encumbrances of any kind or nature.
- (b) It holds any and all licenses, permits and authorisations required under applicable law to subscribe Storage Services and that it shall use its reasonable endeavours to maintain such licenses, permits and authorisations during the Contract Period, without prejudice.
- (c) It will duly and timely file in compliance with applicable law, all returns, reports and declarations that ought to be filed with regard to customs duties; it will pay fully and timely all amounts due in this respect to the tax authorities; and it will keep Storage Operator safe from any claim from the tax authorities in respect to customs duties.

## 9.3. Storage Operator warranties

Storage Operator hereby warrants to Storage User that:

- (a) It owns the Storage Installation and holds any and all licenses, permits, authorisations and rights required under applicable law to operate the Storage Installation. It shall take all necessary steps to keep the ownership, required licenses, permits, authorisations and rights during the entire Contract Period as of the Start Date.
- (b) It holds any and all licenses, permits and authorisations required under applicable law to provide Storage Services and that it shall use all reasonable endeavours to maintain such licenses, permits and authorisations during the Contract Period, without prejudice.
- (c) That all Natural Gas (re)delivered by the Storage Operator to the Storage User at the Interconnection Point is free from all liens, claims, assessments and encumbrances of any kind or nature.

## 10. LIABILITY

10.1. Subject to the provisions of the present Article 10, risks related to the Natural Gas shall pass to the Storage Operator at the Interconnection Point at the moment of delivery by the Storage User to the Storage Operator. Risks related to any Natural Gas shall pass to the Storage User at the Interconnection Point at the moment of (re)delivery by the Storage Operator to the Storage User.

10.2. Except for gross negligence (Dutch: 'zware fout'; French: 'faute grave') or wilful misconduct (Dutch: 'opzettelijke fout'; French: 'faute intentionelle'), in case of contractual liability or extra-contractual liability, or in case of a concurrence between a

contractual and extra-contractual liability, Article 10 shall apply to all circumstances under which a Party and/or its Affiliated Companies may be held liable for damages arising out the present Standard Storage Agreement.

Damages from one Party towards the other Party shall be limited to Direct Material Damages which have a causal link with the fault(s) and amounts determined in Article 10.3 of the present attachment. Any other damages, such as loss of use, loss of income, loss of production, loss of profit or interest and any indirect material or immaterial damages are expressly excluded.

- 10.3. Without prejudice to the tariff supplements possibly due, a Party's maximum liability for the damages sustained by a Party towards the other Party shall be limited per Contract Year to five percent (5%) of the fees of the Storage Services subscribed by Storage User over the previous twelve (12) Months, without such limitation being less than twenty five thousand Euros (EUR 25,000).
- 10.4. In case of loss of (part of) Storage User's Gas in Storage due to the fault of the Storage Operator under civil law, the Storage Operator shall be liable towards the Storage User for such loss for which the value shall be determined on the basis of the average ZTP European Gas Spot Index ZIG Day Ahead price of Natural Gas during the Injection Season.

Such liability shall be limited per event to a maximum amount of:

- 25,000,000 EUR;
- multiplied by the quantity of Storage User's Gas in Storage at the time of the loss; and
- divided by the total quantity of Natural Gas as stored in the Useful Storage Capacity at the time of the loss.

- 10.5. In case of unavailability of the Storage Services resulting from unplanned works which:
- (i) are due to the Storage Operator's default under civil law;
  - (ii) and which could not be announced by the Storage Operator with a prior written notice to all the Storage Users.

Storage Operator shall be liable, subject to articles 10.3 of this attachment, for the capacity costs related to such event (capacity costs for Storage and transportation in Belgium, i.e. the part of the costs related to the entry to/exit from the Storage Installation) whilst Storage User must take all reasonable measures to minimize the costs.

However, if the unavailability of the Storage Services as described here above results from urgent unplanned works which are required to safeguard the security and the integrity of the Storage Installation and which do not result from a fault of the Storage Operator under civil law, then no damages shall be due to the Storage User for such costs.

- 10.6. Third party claims: Parties shall indemnify each other from and against all kinds of demands, claims of third parties arising out the Standard Storage Agreement and/or Services Confirmations exceeding the threshold set out in Article 10.3.

- 10.7. Waiver of recourse: Concerning death and/or personal injury or illness of a member of personnel of one of the Parties and except for gross negligence (Dutch: 'zware fout'; French: 'faute grave') or wilful misconduct (Dutch: 'opzettelijke fout'; French: 'faute intentionnelle'), the Parties mutually waive all claims they may have against each other for such damages caused to their member of personnel or proxy holder.
- 10.8. The Parties shall do all that is necessary so that the waiver of recourse referred to in Article 10.7 of this attachment and waiver of all rights of recourse or subrogation against the other Party shall be accepted by their respective insurers.

## 11. FORCE MAJEURE

- 11.1. The term "Force Majeure" shall mean any unforeseeable and insurmountable event beyond the control of any Party acting in accordance with the standards of a Reasonable and Prudent Operator or Storage User which temporarily or definitively makes impossible for such Party to fulfil any obligation under this Standard Storage Agreement towards the other Party.
- 11.2. A Party claiming relief on account of Force Majeure shall:
- a) forthwith notify the other Party of the event constituting Force Majeure and shall furnish all available information on the cause of the event and estimate the time required to remedy the Force Majeure situation; and
  - b) forthwith take all reasonably practicable steps to minimize the consequences of the Force Majeure and to limit the damage caused thereby.
- 11.3. If within one month as from the notification referred to in Article 11.2 of this attachment the Parties do not agree to accept the event as Force Majeure, either Party can call upon Article 19 of this attachment.
- 11.4. Following events could constitute Force Majeure, without being limited thereto: forces of nature, strikes, acts of Government or any governmental authority or representative thereof (whether or not legally valid), non-obtention or non-renewal in due time of any authorisations or licences in case such non-obtention or non-renewal is not attributable to any delay caused by the party requesting such authorization or license or other fault on the part of the requesting Party, refusal by the authorities to maintain any authorisations, wars, insurrections, riots, landslides, fires, floods, earthquakes, explosions, breakage or accidents to any transportation or storage installations or other equipment, force majeure on behalf of Storage Operator's suppliers necessary for the implementation of this Standard Storage Agreement.
- Any labour dispute shall be settled at the sole discretion of the Party having such dispute.
- 11.5. a) Without prejudice to Article 10 of this attachment, the Storage Operator shall have the right, when invoking Force Majeure, to proceed to an interruption and such interruption shall be applied to Storage User and the other Storage Users *pro rata* the subscribed Capacities.

- b) If a Party is affected by Force Majeure and the event is recognized as Force Majeure either by the other Party either in application of Article 19 of this attachment, the Monthly Service Fee according to attachment B of the Access Code for Storage shall continue to be due by the Storage User during the first nine (9) Months after the Force Majeure has been notified in accordance with Article 11.2 of this attachment, however with a reduction of five (5) percent.
- c) If after expiry of the nine (9) Month period, it is established that the Force Majeure is irreparable and this has been accepted either by the Parties, either in application of Article 19 of this attachment, Parties shall be immediately released without any indemnity of all obligations arising out the Services Confirmation(s) affected by Force Majeure, except for the obligations which already existed prior to the notification of Force Majeure in accordance with Article 11.2.
- d) If after expiry of the nine (9) Month period, the Force Majeure is reparable, the Monthly Service Fee according to attachment B of the Access Code for Storage shall be suspended until the end of the Force Majeure. In such case Parties may agree that there shall be proceeded to an adjustment of the duration of the Services Confirmation(s) if such duration exceeds the Storage Year in which the nine (9) Months expire. If Parties cannot come to an agreement, either Party can call upon Article 19 of this attachment.

## 12. INCIDENTS AND EMERGENCY

### 12.1.a) Incidents

Without prejudice to Article 11 of this attachment, and in accordance with the attachment G of the Access Code for Storage, in case of an incident compromising the safe and efficient operation of the Storage Installation and/or the system integrity of the Transmission System or the Storage Installation, urgent measures shall be taken by Storage Operator, as the case may be at the request of the Transmission Operator, which can consist inter alia of, without being limited to, an interruption and/or reduction of the Storage Services. The Storage Users affected by the interruption and/or reduction and the CREG shall be informed as soon as possible by the Storage Operator of the event and the probable duration.

The Storage Operator shall make an incident management plan which, after consultation with the Transmission Operator, shall be included in attachment G of the Access Code for Storage.

### 12.1.b) Storage Emergency

In case of Storage Emergency, the Storage Operator shall also have the right to request the Storage User to immediately withdraw its Gas in Storage, until a secure volume (i.e. which guarantees the integrity of the Storage Installation) has been reached in the Storage Installation(s).

The Storage Operator may take all measures it deems necessary to guarantee the safety and system integrity of the Storage Installation in case of a Storage Emergency referred to in Article 144 of the Code of Conduct. If it deems it necessary, the Storage Operator

can activate the incident management plan included in attachment G of the Access Code for Storage.

In case of Storage Emergency, the Storage Operator shall notify the Storage User as soon as reasonably possible of such Storage Emergency in which cases the prior notice period may be shorter than ten (10) Business Days.

## 12.2. SoS Emergency

The Storage User must immediately and temporarily make available to the Storage Operator capacities and Gas in Storage, in case of a significant supply disruption amounting to an SoS Emergency, as defined in the Security of Supply Regulation, and as confirmed by the '*competent authority*'.

In such case, the subscribers grant Storage Operator or any third party designated by the competent authority the right to use (part of) those subscribers' Withdrawal Capacity and/or Gas in Storage during the state of such SoS Emergency, in order to allow Storage Operator or any other designated party to comply with its obligations under the Security of Supply Regulation (or its enactment into Belgian law, as the case may be).

Storage Operator or such other designated party shall reimburse to the affected subscribers of Storage Capacity an amount corresponding to the capacity costs at the ~~Regulated~~-Tariff for Storage and transportation in Belgium, i.e. the part of the costs related to the exit from the Storage Installation, that they have paid for the part of the firm Withdrawal Capacity used during the period of such SoS Emergency.

Furthermore, Storage Operator will, as soon as reasonably possible, restitute the same amount of Natural Gas, expressed in energy, withdrawn pursuant a SoS Emergency in kind, or, subject to both Parties' agreement, in cash (the value of the Natural Gas being determined on the basis of the average ~~ZTP European Gas Spot Index ZIG Day Ahead price~~ of the Natural Gas during the period beginning fifteen (15) days before the start date of the event of SoS Emergency and ending fifteen (15) days after the end of such event) or have such designated party to restitute the same amount of Natural Gas withdrawn in kind or in cash.

In such SoS Emergency, the Storage Operator, together with the Transmission Operator, shall be bound to the public service obligation to allocate this gas by priority to the supply of protected customers within the meaning of the SoS Regulation.

## 13. LEGAL AUTHORISATIONS

The Storage Operator shall use its best efforts throughout the term of the Standard Storage Agreement to renew and/or maintain all the legal authorisations, which are required in order to maintain and operate the Storage Installation. The failure to obtain or renew in due time of any such authorisations which is not attributable to any delay caused by the Storage Operator or other fault on the part of the Storage Operator, or a refusal by the authorities not attributable to any delay caused by the Storage Operator or other fault on the part of the Storage Operator to renew and/or maintain such authorisations, shall constitute Force Majeure for the Storage Operator, in which case Article 11 of this attachment about the Force Majeure shall apply.

## 14. CREDITWORTHINESS

### 14.1 General

14.1.1. In order to secure the Storage User's due performance of this Agreement, the Storage User shall:

(a) either provide the Storage Operator with a financial security in the form of a Bank Guarantee or a Gas Pledge at the latest five (5) Business Days before the Start Date of the Service(s); or

(b) at the latest five (5) Business Days before the Services Start Date:

(i) have a credit rating which corresponds to a rating, for the Storage User's long term unsecured and non-credit enhanced debt obligations, of not less than BBB+ by Standard & Poor's Rating Services or Fitch Ratings or not less than Baa1 by Moody's Investor Services; or

(ii) provide an unconditional and irrevocable parent company guarantee of its parent company, which has a credit rating not lower than BBB+ by Standard & Poor's or Fitch rating, or not lower than Baa1 by Moody's.

14.1.2. The Storage User must demonstrate annually at the latest each 1<sup>st</sup> of January that the Storage User or its parent company still meets the requirements of an acceptable credit rating pursuant to Article 14.1.1 (b) of this attachment. If, during the Contract Period, the Storage User no longer meets such requirements, it must immediately notify the Storage Operator hereof. If during the Contract Period the Storage User has to provide a financial security in accordance with Article 14.2 or 14.3, the Storage Operator shall notify the Storage User hereof. As from the receipt of the notice sent by the Storage User, the Storage User shall have twenty (20) Business Days in order to submit a financial security meeting the requirements of Article 14.2 and 14.3. If upon expiry of this period, the Storage User has not submitted a financial security, the Storage Operator has the right to suspend the Services Confirmation until the financial security has been provided. Such suspension shall not constitute a failure by the Storage Operator to provide Storage Services to Storage User under this Standard Storage Agreement.

14.1.3. Notwithstanding Article 14.1.1. and 14.1.2. of this attachment, the Storage User shall have to provide a financial security in accordance with Article 14.2 or 14.3 of this attachment if the Storage User has made a payment with a delay after the Due Date of more than:

(a) twenty (20) Business Days once in the past twelve (12) Months; or,

(b) ten (10) Business Days twice in the past twelve (12) Months.

In this case, the Storage User must submit a financial security ten (10) Business Days after the Storage User was informed by the Storage Operator.

14.1.4. The Storage Operator shall, before the signature of the relevant contract, request the Storage User to demonstrate that it is complying with the Creditworthiness provisions as well as to comply with the “Know Your Customer” requirements established by the Storage Operator in consultation with the CREG. Once the Agreement has duly entered into force, the Storage Operator may assess at any time the compliance of the Storage User with the “Know Your Customer” requirements and may request the Storage User to demonstrate its compliance with the Creditworthiness provisions and “Know Your Customer” requirements. In case the Storage User fails to demonstrate compliance, the Storage Operator has the right to suspend the Services Confirmation until it receives confirmation that the requirements have been complied with. Such suspension shall not constitute a failure by the Storage Operator to provide Storage Services to Storage User under this Standard Storage Agreement.

~~Storage User provides the Storage Operator with a financial security at latest five (5) Business Days before the Start Date of the Service(s). The financial security shall be in the form of:~~

- ~~(a) or a Financial Bank Guarantee;~~
- ~~(b) or a Gaspledge~~

#### 14.2. Financial Bank Guarantee

14.2.1. The Financial Bank Guarantee, referred to in attachment H of the Access Code for Storage, shall be entered into at a bank approved by the Financial Services & Markets Authority certified by the Banking, Finance and Insurance Commission (or a similar body in one of the EU Member States) for the amount of an average invoice amount of two (2) Months (VAT included) calculated for the next Storage Year and with a remaining duration of not less than thirty (30) days.

If the Service has a duration of less than thirty (30) days, the Storage User shall pay to the Storage Operator at the latest on the date of Subscription of the Service, the expected invoice amount (VAT included).

Any modification of Storage User’s Subscribed Service(s), lower or higher, during the Storage Year covered by the Financial Bank Guarantee, shall automatically entail the adjustment of the amount of the Financial Bank Guarantee accordingly.

The Storage Operator shall be entitled at any time during the Storage Year covered by the Financial Bank Guarantee to request Storage User to demonstrate within fifteen (15) Business Days after the notification by Storage Operator that the Financial Bank Guarantee is in fact compliant with this Article 14 of this attachment.

On a yearly basis and at the latest on the first day of the Storage Year and to the extent the Storage User has subscribed a Services Confirmation, the Storage User shall provide proof to the Storage Operator that the Financial Bank Guarantee still complies with the requirements set in Article 14 of this attachment.

The Financial Bank Guarantee shall at all times have a validity of at least two (2) Months after the expiry of the Service End Date, as specified in the relevant Services Confirmation.

- 14.2.2 In the case of failure to pay the invoices by the Due Date and after an expiry term of ten (10) Business Days after receipt by the Storage User of a notice of default sent by the Storage Operator by registered letter, the Financial Bank Guarantee may be drawn upon by the Storage Operator.

If Storage Operator has drawn on the Financial Bank Guarantee, Storage User shall within twenty (20) Business Days as from the date of such drawdown, demonstrate that the financial institution which provided the Financial Bank Guarantee, has adjusted the amount to the level of the Financial Bank Guarantee as specified in Article 14 of this attachment or by providing a new Financial Bank Guarantee which meets the requirements of Article 14 of this attachment.

- 14.2.3 In the absence of a Financial Bank Guarantee in accordance with Article 14 of this attachment, the Storage Operator has the right to suspend the Services Confirmation until it receives confirmation that the Financial Bank Guarantee has been provided. Such suspension shall not constitute a failure by the Storage Operator to provide Storage Services to Storage User under this Standard Storage Agreement.

#### 14.3. Gas Pledge

- 14.3.1 To the extent that the Storage User is the owner of the Natural Gas, the Storage User gives to the Storage Operator, in accordance with the provisions mentioned in attachment H1 of the Access Code for Storage, a quantity of Natural in Gas Pledge (the Pledged natural Gas) with a value equal to the average invoice amount of two (2) months (VAT included) calculated for the next Storage Year and with a remaining duration of not less than thirty (30) Days.

If the Service has a duration of less than thirty (30) days, the Storage User shall pay to the Storage Operator at the latest on the date of the Subscription of the Service, the expected invoice amount (VAT included).

Any modification of the Storage User's Subscribed Service(s), lower or higher, during the Storage Year covered by the Gas Pledge, shall automatically entail the adjustment of the quantity of the quantity of Pledged Natural Gas.

The Storage Operator shall be entitled at any time during the Storage Year covered by the Gas Pledge to request Storage User to demonstrate within fifteen (15) Business Days after the notification by Storage Operator that the Pledged Natural Gas is in fact compliant with this Article 14 of this attachment.

On a yearly basis and at the latest on the first day of the Storage Year and to the extent the Storage User has subscribed a Services Confirmation, the Storage User shall provide proof to the Storage Operator that the Pledged Natural Gas still complies with the requirements set in Article 14 of this attachment.

The Gas Pledge shall at all times have a validity of at least two (2) Months after the expiry of the Service End Date, as specified in the relevant Services Confirmation.



- 14.3.2 In the case of failure to pay the invoices by the Due Date and after an expiry term of ten (10) Business Days after receipt by the Storage User of a notice of default sent by the Storage Operator by registered letter, the Storage Operator shall have the right to enforce the Gas Pledge in accordance with the procedure of the Act of 5 May 1872 on commercial pledges.

The Storage User expressly waives the benefit granted to it in Article 1253 and Article 1256 of the Civil Code. If the proceeds of the enforcement would exceed the amount of unpaid invoices, the Storage Operator must reimburse to the Storage User the amount exceeding the amount of the unpaid invoices.

If Storage Operator has enforced the Gas Pledge, Storage User shall within twenty (20) Business Days as from the date of such enforcement, demonstrate that the Gas Pledge, has been adjusted again to the level of the Gas Pledge as specified in Article 14 of this attachment.

- 14.3.3 In the absence of a Gas Pledge in accordance with Article 14 of this attachment, the Storage Operator has the right to suspend the Services Confirmation until it receives confirmation that the gas Pledge has been provided. Such suspension shall not constitute a failure by the Storage Operator to provide Storage Services to Storage User under this Standard Storage Agreement.

## **15. TERM, TERMINATION AND SUSPENSION OF THE AGREEMENT**

- 15.1. Term and duration of the Agreement

The Standard Storage Agreement shall enter into force on the Start Date of this Standard Storage Agreement and shall be effective for an undetermined term.

- 15.2. Termination of the Agreement by the Storage User

The Storage User shall have the right to terminate at any time the Standard Storage Agreement by giving written notice to the Storage Operator and complying with a notice period of minimum six (6) months prior to the expiry of the Storage Year and the termination date of the terminated Storage Service(s) by the Storage User as provided in Article 16 of this attachment.

## **16. TERM, TERMINATION AND SUSPENSION OF SERVICES**

- 16.1. Term of Storage Services

Each Storage Service can be subscribed on a yearly basis (YTS (0 to 1 year)) or on a long term basis (LTS (2 to 10 years)). The Storage Service shall automatically end at the End Date set out in the Services Confirmation.

- 16.2. Suspension of Storage Services by the Storage Operator

In the absence of payment of an invoice after Due Date, the Storage Operator, within 30 (thirty) Business Days as from receipt by the Storage User of a notice from the Storage Operator hereto, shall be entitled to suspend provision of the Storage Services related to the invoices not paid for as long as such invoices remain unpaid.

### 16.3. Termination of Service(s) by the Storage User

The Storage User shall be entitled to early terminate a Storage Service under the following conditions:

- (a) For YTS: at any time subject to prior written notice and payment to the Storage Operator of a termination indemnity corresponding to 100% (one hundred percent) of the amounts still to be invoiced for such YTS until the End Date set out in the Services Confirmation (calculated on the basis of the ~~Regulated~~-Tariffs).
- (b) For LTS: at any time subject to prior written notice of minimum six (6) months before the start of the following Storage Year and payment to the Storage Operator of a termination indemnity corresponding to 95 % (ninety-five percent) of the amounts still to be invoiced for such LTS until the End Date set out in the Services Confirmation (calculated on the basis of the ~~Regulated~~-Tariffs).

If the Storage Operator can partly or wholly sell the validly terminated LTS for the coming Storage Year on the Primary Market to another Storage User, only for the sold part and the period thereof the corresponding amount shall be reimbursed by the Storage Operator to the Storage User having terminated such LTS.

- (c) For LTS with a contract duration of at least four (4) years: In case of an increase of the applicable ~~Regulated~~-Tariff, above yearly indexation at the index of consumer prices in Belgium as published by the official Belgian Gazette “Moniteur Belge/Belgisch Staatsblad”, the Storage User is entitled to early terminate for the remaining term of such service, subject to written notice to the Storage Operator at the latest within two (2) months after the publication of the new ~~Regulated~~-Tariffs in the official Belgian Gazette “Moniteur Belge/Belgisch Staatsblad”. The ~~Regulated~~-Tariff applicable at that time until the end of the current Storage Year in which the termination was notified to the Storage Operator, remains due by the Storage User.

- 16.4. In case of termination or dissolution of Storage Service(s) and if the prior notice time or date on which the Storage Service(s) is/are dissolved is not sufficient for the Storage User to empty its Gas in Storage, the prior notice time or dissolution date of the Storage Service(s) shall be extended to the time necessary, calculated based on the Real Withdrawal Capacity, for the Storage User to empty its Gas in Storage.

If the Storage User fails to empty its Gas in Storage within the aforementioned time period, than the provisions of the Article 2.7.3. of attachment D.1 of the Access Code shall apply.

## 17. MISCELLANEOUS

## 17.1. Notices

Unless otherwise expressly stated, every notice and request provided for herein shall be in writing and shall be deemed to have been given in due course and time if delivered to the other Party or sent to said Party, by post, telefax (in which event the telefax shall immediately be confirmed by letter), e-mail or by airmail letter, in accordance with Article 8 of the Standard Storage Agreement.

## 17.2. Confidentiality

Storage Operator shall keep the confidentiality of commercially sensitive information in compliance with the relevant regulations and with its internal guidelines.

This Standard Storage Agreement and all information obtained hereunder by one Party from the other Party shall be treated as confidential. If, and only to the extent that, such disclosure is required for the proper performance of their operations or work in relation to this Standard Storage Agreement, such confidential information may be disclosed to employees, agents, contractors, consultants, customers, sellers of the Natural Gas and other Storage Users. In such case, such disclosing Party shall cause its employees, agents, contractors, consultants, customers, sellers of the Natural gas and other Storage Users to treat the information in accordance with the provisions with regard to confidentiality. The Parties shall exercise due precaution to avoid improper disclosures of confidential information.

No Party shall disclose confidential information to any third party without the prior written consent of the other Party except where such disclosure of such information is reasonably required in connection with a bona fide assignment of an interest in this Standard Storage Agreement, the borrowing of funds, obtaining of insurance, sale of securities and in connection with required reports and applications to relevant governmental agencies.

However, the Storage User or the Storage Operator may without such consent release information obtained hereunder to an Affiliated Company, provided that such release of information is required for such Party's proper performance under this Standard Storage Agreement and subject to the first paragraph of this Article 17.2~~17.2~~. In such case, such releasing Party shall ensure that its Affiliated Company shall execute written undertakings as to confidentiality.

This confidentiality obligation of Article 17.2~~17.2~~ shall not apply to:

- 1) information which is publicly available at the time it is made available to the receiving Party or subsequently becomes generally available to the public other than as a result of disclosure or other act or omission by the receiving Party or any of its employees or otherwise contrary to its obligations of confidentiality; or
- 2) which was available (as can be demonstrated by its written records) to the receiving Party or to any of its employees, prior to the supply of such confidential information by the other Party, and which is free of any restrictions as to its use for disclosure; or
- 3) which the relevant Party is required by law, or regulation or by the requirements of any regulatory or other authority to disclose.

Where disclosure is made to any third party appropriate safeguards shall be made as a prerequisite to such disclosure to prevent said third party from making any further disclosure of such information without the written consent of the Parties.

### 17.3. Information

The Parties shall at any time give each other all such information as may be necessary or useful to enable each Party to exercise its rights and to carry out its obligations under this Standard Storage Agreement.

Storage User shall, throughout the term of this Standard Storage Agreement, keep Storage Operator duly informed of any material change in its ability to perform its obligations under this Standard Storage Agreement, and any failure to provide Storage Operator with such information within a reasonable period of time, shall constitute a material breach of Storage User's obligations under this Standard Storage Agreement.

Throughout the term of this Standard Storage Agreement the Storage User shall provide in a full and accurate manner to the Storage Operator inter alia following information:

- 1) the information which must be communicated for any Storage Services request in accordance with the Code of Conduct and attachment C2 of the Access Code for Storage;
- 2) the information necessary to make the invoices;
- 3) all available information concerning an event affecting the Storage User and possibly affecting the natural gas injection in the Storage Installation;
- 4) the nominated quantities of natural gas which are in accordance with the information provided by the supplying transmission company and/or Transmission Operator. Where appropriate the Storage Operator shall be entitled to request additional information;
- 5) the amount, term and nature of the Transmission Services which it subscribed at the Interconnection Point with the Transmission Operator.

Failure to comply with this Article 17.3 shall constitute a material breach of Storage User's obligations under this Standard Storage Agreement. Failure to comply with the information obligations by the Storage User shall be sanctioned, as the case may be, under criminal law in accordance with Article 234 of the Code of Conduct.

### 17.4. Storage User's Representative

The Storage User shall have the right to appoint a representative to act on its behalf and which may be authorized to act on its behalf for the purpose of, inter alia, the following:

- 1) give and receive all statements, notices and information hereunder;
- 2) exercise the Storage User's rights concerning measurement and testing at the Interconnection Point;
- 3) perform Storage User's rights at the Interconnection Point.

Such appointment shall be notified to the Storage Operator, who shall be fully protected in acting in reliance upon any and all acts or things done or performed or agreements made in respect of, inter alia, the above-mentioned matters by the Storage User's Representative as if the Storage User had done or performed the same.

## 17.5. Severability

If any of the provisions of this Standard Storage Agreement is or becomes invalid, illegal or unenforceable in whole or in part, such provision shall be substituted after approval of the CREG by a valid and enforceable provision but failure to do so shall result in said provision being removed from this Standard Storage Agreement which shall otherwise remain unaltered.

## 17.6. Waiver

The failure of a Party to this Standard Storage Agreement to enforce or to exercise, at any time or for any period of time, any term of or any right arising under or pursuant to this Standard Storage Agreement does not constitute, and shall not be construed as, a waiver of such term or right and shall in no way affect that Party's right to enforce or exercise it later except if expressly otherwise provided.

## 17.7. Survival of rights, duties and obligations

17.7.1. Termination of this Standard Storage Agreement for any cause shall not release a Party from any liability which at the time of termination has already accrued to the other Party or Parties or which thereafter may accrue in respect of any act or omission prior to such termination.

17.7.2. Termination shall not release the Parties from their obligations under Article [17.217.2](#) of this attachment, which shall continue in force for a period of three (3) years following termination.

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## 17.8. Entire Agreement

This Standard Storage Agreement constitutes the entire agreement and understanding between the Parties with respect to its subject matter and replaces any existing agreement having the same scope between the Parties.

Any existing agreement between the Parties with respect to the subject matter of this Standard Storage Agreement, shall automatically terminate and extinguish as from that date on which this Standard Storage Agreement is signed, without prejudice to any liability of a Party to the other which has already accrued at the time of termination or which may accrue thereafter in respect of any act or omission prior to such termination.

## 17.9 Rules on the negotiability and assignment of Storage Services

Storage User may assign or transfer any or all of the Storage Services it has subscribed for under this Standard Storage Agreement in accordance with this Article 17.9 and following the procedures and rules set out in attachment C3 of the Access Code for Storage.

### 17.9.1. Types of assignment

Three types of assignment of Storage Services are possible:

- a) assignment through OTC:

- (i) assignment with release of rights and obligations: this means that all rights and obligations (including all payment obligations) of the assigned Storage Services are transferred during the period of the assignment and that the assignee is liable in full for adhering to all obligations that are associated with the Storage Services being assigned.
  - (ii) assignment without release of rights and obligations: this means that assignor and assignee both remain liable during the period of the assignment. In case the assignee fails to fulfil its obligations that relate to the assigned Storage Service(s), then the assignor shall be held jointly liable for adhering to these obligations.
- b) assignment through Secondary Market Platform with partial release: this means an assignment as described in a) (i) here-above except that (1) the assignor remains liable towards the Storage Operator for payment of all Service Fees to the Storage Operator and (2) the assignee shall become liable for all other obligations (amongst others Commodity Element and the Settlement Fees) linked to the relevant part and duration of the SCFA.

#### 17.9.2. Rights and obligations of the assignor

When assigning Storage Services, both parties have a number of rights and obligations. If one of the parties does not satisfy the obligations, the Storage Operator will not accept the assignment of the Storage Service(s) in accordance with attachment C3 of the Access Code for Storage.

##### *17.9.2.1. Assignor rights*

The assignor has the right:

- (a) to assign part or all of its Storage Services to an assignee for a period of at least the minimum period of a one (1) Day up to a maximum of the end of the Service Period for the Storage Services;
- (b) to freely negotiate the price of the Storage Services with one or more potential assignees;
- (c) to inform the Storage Operator of any Storage Service that the assignor wishes to make available on the Secondary Market. The Storage Operator publishes each valid offer for the Secondary Market Platform;
- (d) to trade part of or all of its Storage Services in accordance with the assignment procedure “Assignment Procedure 2: Secondary Market Platform between Storage Users” which is set out in the attachment C3 of the Access Code for Storage.

##### *17.9.2.2. Assignor obligations*

The assignor has the obligation:

- (a) to inform the Storage Operator of the unused Capacity for all Storage Services;
- (b) pursuant to the Code of Conduct, to make all of its temporarily or permanently unused Storage Services available on the Secondary Market;

- (c) to provide notification to the Storage Operator of all of its offers of Storage Services on the Secondary Market. For this purpose where applicable it can use the Storage Operator's Secondary Market Platform.

### 17.9.3. Rights and obligations of the assignee

#### 17.9.3.1. Assignee rights

The assignee has the right:

- (a) to negotiate with the assignor about the quantity, term and price of the Storage Services offered in the Secondary Market;
- (b) once the assignment has been confirmed by the Storage Operator in accordance with attachment C3 of the Access Code for Storage, to use the assigned Storage Services in accordance with the Operating Procedures of the Storage Services that are offered on the Primary Market as explained in attachment D1 of the Access Code for Storage;
- (c) to add Storage Services purchased on the Secondary Market to the Storage Services that it already had subscribed to on the Primary Market;
- (d) to sell on Storage Services purchased on the Secondary Market on the Secondary Market.

#### 17.9.3.2. Assignee obligations

The assignee has the obligation:

- (a) to pay as the case may be as from the start date of the assignment to the Storage Operator the Tariff for the assigned Storage Services;
- (b) to observe the rules, conditions and obligations described in the Access Code for Storage and the Standard Storage Agreement.

## 17.10. Congestion management

17.10.1. Pursuant to the provisions of the Code of Conduct and attachment F of the Access Code for Storage and in order to assure both an efficient and maximum use of Capacity, the Storage Operator undertakes following pro-active measures for congestion management through :

- i. offering the maximum Injection, Storage and Withdrawal Capacity to Storage Users, taking into account system integrity and operation and within the actual exploitation boundaries;
- ii. offering and developing Storage Services that are aligned with the market needs;
- iii. adopting non-discriminatory and transparent Service Allocation Rules as set forth in the Access Code for Storage;
- iv. encouraging the “use or sell” principle for Storage Services by both actively monitoring the utilization rate of the Storage Users’ subscribed Storage Services and facilitating the transfer of Storage Services via the Secondary Market;
- v. offering day-ahead services which allow the Storage Users to use the injection and withdrawal capacity not used by other Storage Users on an interruptible basis.

17.10.2. Pursuant to the provisions of the Code of Conduct and attachment F of the Access Code for Storage, the Storage User furthermore undertakes the following pro-active measures for congestion management:

- i. does not subscribe more firm storage capacity than reasonably required to fulfill his contractual provisions made;
- ii. to offer on the Secondary Market its Subscribed Capacities that it temporarily or permanently does not use;
- iii. shall refrain from using the allocated Subscribed Capacities to hamper, limit or disturb the functioning of the market.

## **18. CHANGED CIRCUMSTANCES**

18.1. The Storage User acknowledges that regulations regarding Storage Services (including applicable legal provisions and the Access Code for Storage) are evolving, without prejudice to Articles 18.2 and 16.3 (c) of this attachment. If during the term of this Standard Storage Agreement, there is a change of such regulations, due to a valid decision of the CREG or any other regulatory authority, or due to any change in the applicable regulatory law, such change shall automatically and ipso jure apply to the Agreement as of the moment such change has become effective. Such changes shall enter into force for each Storage User on the same day, on the date set by the CREG.

If certain provisions of this Standard Storage Agreement require to be amended following a change in the applicable law or regulation, the Storage Operator shall be entitled to amend or modify this Standard Storage Agreement after consultation of the Storage Users and after approval of the CREG in accordance with the applicable laws and regulation, in order to make it comply with applicable law and regulation.

18.2. Without prejudice to Article 18.1 of this attachment, If there is a change of circumstances, as from the Start Date, linked to storage regulations in Belgium and/or a substantial change in the system for access to the Storage Installation which results in a substantial negative impact in the economic balance of this Standard Storage Agreement that could not reasonably have been anticipated on the basis of information available on the date hereof, then the Storage User shall be entitled to request the Storage Operator to terminate the LTS subject to prior written notice of four (4) years. If the Parties cannot agree on the substantial and negative nature of the impact on the economic balance, the Parties may agree to refer to an Expert for opinion in accordance with the provisions of Article 19 of this attachment. If the Parties cannot agree to refer to an Expert or if the Parties disagree concerning the Expert's opinion, then each Party shall have the right to submit the dispute to the competent court in accordance with Article 20 of this attachment.

## **19. EXPERTS**

19.1. Application

Whenever in this Standard Storage Agreement any person is to be appointed as an expert (hereinafter "Expert") or any matter is to be referred to an Expert (in accordance with the Code of Conduct) and whenever the Parties agree that a point of dispute between them



shall be submitted to an Expert, without prejudice to Articles 15/17 and 15/18 of the Gas Act of 12 April 1965, provisions of this Article shall apply.

#### 19.2. Appointment of a single Expert

The procedure for the appointment of an Expert shall be as follows:

- a) The Party requesting the appointment of an Expert shall notify the other Party hereof by registered mail, mentioning details of the matter which is proposed to be submitted to the Expert.
- b) Upon receipt of this registered notice, Parties shall meet as soon as possible in an endeavour to agree upon the appointment of a single Expert to whom the matter in dispute shall be referred for opinion within five (5) Business Days after such agreement.
- c) If Parties fail to meet or cannot agree on the appointment of an Expert within five (5) Business Days from the dispatch date of the said registered notice, the most diligent Party will refer the matter either to the President of the Belgian Centre for Mediation and Arbitration (CEPANI), Brussels, or to the President of the Commercial Court in Brussels in accordance with Article 588 of the Belgian Judicial Code, who shall be requested to appoint an Expert within five (5) Business Days from the request hereto. The jurisdictional authority firstly seized (between the President of the CEPANI and the President of the Brussels Commercial Court) shall have exclusive jurisdiction to appoint the Expert.
- d) Once the Expert has been appointed, the most diligent Party shall notify within five (5) Business Days after his/her appointment such Expert of his/her appointment and shall request him/her in writing to indicate, within five (5) Business Days from the date of the notification of his/her appointment, whether or not he/she is willing and able to accept the appointment.
- e) If such Expert does not or cannot accept his/her appointment for whatever reason, within the said period of five (5) Business Days then the matter shall again be referred (by either Party) in the manner aforesaid to the President of the CEPANI or to the President of the Brussels Commercial Court, unless Parties commonly agree on the appointment of another Expert. This procedure shall be repeated until an Expert is found who accepts the appointment.

#### 19.3. Qualification of Expert

A person can only be appointed to act as an Expert if he/she is qualified by education, experience and training to issue an opinion on the matter in dispute.

#### 19.4. Conflicting Interest

Any person appointed as an Expert shall before accepting such appointment fully disclose any interest or duty he/she has or may have which conflicts or may conflict with his/her function under such appointment. The Expert shall also fully disclose any such interest or duty incurred at any time before he/she gives his/her opinion under such appointment, provided always that no person shall be appointed as an Expert if this person, at the time

of appointment, is an employee, agent or representative of either Party or of any Affiliated Company or of any company in which either Party has a direct significant financial interest.

## 19.5. Decision

### 19.5.1. Representations, data and information

Together with the mention that he/she accepts his/her appointment in accordance with Article 19.2, d) of this attachment, the Expert shall invite the Parties to communicate to him/her all evidence and/or information within five (5) Business Days. The Expert may make all other enquiries and require any other evidence as may be necessary for issuing its opinion on the matter. The proceedings shall be conducted in English.

All submissions and information submitted by one Party to the Expert shall also be provided to the other Party.

All information and data submitted to the Expert by any Party as confidential shall be and remain confidential; provided that, if the other Party desires to do so, it may have an independent Expert advisor examine the submitted confidential information and advise said Party professionally without compromising the confidentiality. The expert advisor may under no circumstances be an employee, agent or representative of a Party or an Affiliated Company.

### 19.5.2. Substitution of Expert

If within a reasonable period (which shall not exceed three (3) months from the dispatch date of the acceptance by the Expert of his/her appointment unless otherwise agreed by both Parties), Expert has not rendered its opinion, then (at the request of either Party) a new Expert may be appointed under the provisions of this Article.

### 19.5.3. Competence

The Expert shall be deemed not to be an arbitrator. As a result, any applicable law or legislation with regard to arbitration shall not apply to the Expert's appointment, opinion or the procedure according to which the Expert expresses its opinion.

### 19.5.4. Opinion

Prior to making a final opinion, the Expert shall hear the Parties either orally or in writing. After receipt of all exhibits, the Expert shall make a calendar to make his/her opinion which he/she must comply with unless there must be deviated from such calendar in exceptional circumstances.

The Expert's opinion must be in writing and must be motivated. The opinion shall be final but shall not be binding upon the Parties. If Parties cannot agree on the Expert's opinion, the most diligent Party may submit the dispute to the competent court in accordance with Article 20 of this attachment. As the case may be, the opinion shall be translated into French or Dutch by a sworn translator. Unless otherwise agreed by the Parties, the Expert's opinion shall be admissible in any judicial proceeding in which the

Parties thereto were parties to the expertise proceedings in which such opinion was issued.

#### 19.5.5. Costs

Each Party shall bear the costs and expenses of all counsel witnesses and employees retained by it but the costs and expenses of the Expert shall be apportioned equally between the Parties.

## 20. DISPUTES

All claims, disputes and other matters arising out of or relating to this Standard Storage Agreement which the Parties are unable to resolve by mutual agreement or when a Party does not agree with the opinion of the Expert in accordance with Article 19 of this attachment, shall exclusively and finally be settled by the courts of Brussels.

Alternatively, the most diligent party may, by notice to the other, also refer the Dispute to be finally settled by arbitration. Such arbitration shall be conducted in accordance with the Rules of Arbitration of the International Chamber of Commerce (ICC) prevailing and in effect as at the date either Party refers the Dispute to arbitration by three (3) arbitrators. Each Party shall appoint a qualified arbitrator within ten (10) Business Days of the respondent's receipt of the notice of arbitration. The two arbitrators so appointed shall within ten (10) Business Days of the appointment of the second arbitrator, appoint a third arbitrator, who shall act as the presiding arbitrator. Should an arbitrator fail to be so appointed, then such arbitrator will be appointed in accordance with the Rules.

The place of the arbitration will be Brussels, Belgium.

The language of the arbitration will be English.

The arbitrators shall apply the governing law to the interpretation of this Agreement.

The Parties waive any defence based on sovereign immunity to arbitration, immunity to judicial proceedings to enforce or to aid any such arbitration, and immunity to enforcement and execution of the award or of any judgment entered thereon.

The decision of the arbitration panel shall be motivated and shall be final and binding on the Parties and enforceable in accordance with the rules of the New York Convention of 1958 on the recognition and enforcement of foreign arbitral awards.

The exequatur of the decision of the arbitrators shall be requested before the courts of Brussels.

## 21. APPLICABLE LAW

This Standard Storage Agreement shall be governed and construed in accordance with Belgian law.

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