

FLUXYS NV/SA

and

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VIRTUAL STORAGE AGREEMENT

For information purposes only

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This Virtual Storage Agreement, hereinafter referred to as “Agreement”, is entered into between:

- (1) **FLUXYS NV/SA**, a company incorporated in Belgium, having its registered office at Avenue des Arts 31, 1040 Brussels, Belgium, registered with the Register of Legal Entities under number RPM/RPR 0402.954.628);
hereinafter referred to as **“Operator of the Virtual Storage”** or the **“Operator”**;
represented by [●], [●] and [●], [●];

and:

- (2) [●], a company incorporated in [●], having its registered office at [●], registered with the [●] under [●] and with VAT number ([●]);
hereinafter referred to as **“User of the Virtual Storage”** or the **“User”**;
represented by [●], [●] and [●], [●];

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

WHEREAS:

- A. The Operator of the Virtual Storage operates the Virtual Storage;
- B. The User of the Virtual Storage is party to an MATRS and/or a MTSA and wishes to have natural gas injected into, stored in and withdrawn from the Virtual Storage; and,
- C. The Operator is willing to provide Virtual Storage Service in respect of the Virtual Storage to the User of the Virtual Storage in accordance with the terms and conditions set out in this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

1.1 Definitions

In this Agreement:

Affiliated Company shall mean any enterprise falling within the definition of Article 11 of the Belgian Company Code.

Applicant means any party, who has shown an interest to obtain access to the Virtual Storage, by submitting a SRFQ in accordance with the Gas Act and the Code of Conduct.

Available Service means for a given moment the part of the Service, expressed in m³(n)/h or kWh, that has not been subscribed and is still at the disposal of the User and the Other Users for subscription.

Banking Day means a day (other than a Saturday, a Sunday or any day on which banking institutions are authorized or required by law to close) on which dealings are carried on in the Brussels Interbank market in EUR.

Binding Market Consultation or BMC means the procedure applicable for Allocation of the Service for a Contract Year as published on the Operators website before the start of the applicable Contract Year.

Border to Border Transmission Entry/Exit Services means any service subscribed under the MTSA and provided by the Transporter.

Border to Border Transmission System means the high pressure Natural Gas transmission system needed to perform the Border to Border Transmission Entry/Exit Services obligations, operated by the Transporter.

Capability means the capacity that the Operator can make available for the Virtual Storage which the Operator may interrupt at any time in accordance with the Operating Procedures.

Capacity means the flow per time unit which can be realized or the volume which can be used to store Natural Gas in relation to the Virtual Storage Service.

Capacity Check means the check performed by the Operator on the Nominations in accordance with the Operating Procedures.

Celsius degree means the specific interval, expressed in °C, between a Kelvin temperature and the temperature of two hundred seventy three comma fifteen (273,15) Kelvin, defined as such in the ISO 1000 SI units and recommendations for the use of their multiples and of certain other units.

Code of Conduct means the Royal Decree of 4 April 2003 on the code of conduct for access to Transport Grids of natural gas in Belgium, published in the official Belgian Gazette (Moniteur belge/Belgisch Staatsblad) on 2 May 2003, as amended or replaced from time to time.

Contract Period means the period beginning on the Start Date and ending on the date of termination (for whichever reason) or expiry of this Agreement, including any extension thereof.

Contract Year means a period beginning at 00:00 hours on 1 January in any calendar year and ending at 24:00 hours on the following 31 December, it being understood that the first Contract Year shall begin at 1st July 2010 and end at 24:00 on 31 December of the same calendar year and the last Contract Year shall begin at 00:00 hours on 1 January and end on the Day of termination or expiry of this Agreement.

Corresponding Binding Quantities means the number of SBU's allocated to the User as a result of the BMC.

CREG means the "Commission pour la Régulation de l'Electricité et du Gaz" as referred to under Article 15/14, as amended or replaced from time to time, of the Gas Act.

Day means the period of twenty-three (23), twenty-four (24) or twenty-five (25) hours, as the case may be, beginning at 00:00 hours (Belgian time) on each day and ending at 23:59 hours (Belgian time) on the following day and the date of any Day shall be the date of its beginning as herein defined.

Direct Material Damages shall mean damage to tangible property directly caused by a breach of contract, breach of an extra-contractual obligation or other default.

Domestic Transmission Services means any service subscribed under the MATRS and provided by the Transporter.

Domestic Transmission System or **Domestic Transmission Grid** means the high pressure Transmission System needed to perform the Domestic Transmission Services obligations, owned and operated by the Transporter.

Due Date means the latest Day by which an invoice rendered under this Agreement needs to be paid, which for the purposes of this Agreement shall be the last Banking Day of the Month in which such invoice was sent or ten (10) Banking Days from the date of the new invoice in case of a manifest error in an invoice.

EASEE-gas means the European Association for the Streamlining of Energy Exchange-Gas, created 14 on March 2002.

Emergency means each event or circumstance, whether or not qualifying as Force Majeure, which necessitates urgent measures to be taken by the Operator, acting as a Reasonable and Prudent Operator, in order to maintain the integrity of the Virtual Storage and/or the Transmission System.

Emergency Settlement means the Settlement operated by the Operator in case of Emergency, according to the Operating Procedures.

Emergency Settlement Fee means the fee invoiced to and paid by the User in case of Emergency Settlement, according to the Operating Procedures.

Energy Allocation or **EA** means the quantity of Natural Gas, expressed in kWh that is allocated to the User at the Exchange Point for Virtual Storage for a given period of time.

EUR or **€** means Euro and is the currency used for billing and tariffs.

Euribor means the rate at which euro interbank term deposits, within the Euro Zone, are offered by one prime bank to another prime bank.

Exchange Point for Virtual Storage means the virtual point which connects the Virtual Storage with the Transmission System, either VSI Zeebrugge (VSI ZEE) or VSI Eynatten (VSI EYN).

Financial Security shall have the meaning given to it in Article 14.1.

Fluxys Gas Price Buy or Sell or **FGPbuy/FGPsell** means the price, expressed in €/kWh, for each Day, at which the Operator can buy or sell Natural Gas.

Force Majeure shall have the meaning given to it in Article 12.

Gas Act means the Belgian Gas Act concerning the transportation of gaseous and other substances by pipeline of 12 April 1965, , as amended or replaced from time to time.

Gas Allocation(s) means the part, expressed in kWh, of the energy Injection, as the case may be, of the energy Withdrawal and of the Gas In Storage, which is allocated to the User, based on the Gas Allocation Rules.

Gas Allocation Rules means the rules describing how the Gas Allocation needs to be calculated on the basis of the confirmed Nominations in accordance with the Operating Procedures.

Gas Day means the period of twenty-three (23), twenty-four (24) or twenty-five (25) Hours, as the case may be, beginning at 06:00 hours (Belgian time) on each day and ending at 06:00 hours (Belgian time) on the following day and the date of any Day shall be the date of its beginning as herein defined.

Gas In Storage or **GIS** means the account, expressed in kWh, established by the Operator which reflects the amount of Natural Gas the User has in Storage in the Virtual Storage at a given time.

Gas Price Daily Buy or **GPDbuy** means for each Day, expressed in EUR/kWh, the highest of the Zig Day-ahead, the SMPbuy and the FGPbuy.

Gas Price Daily Sell or **GPDsell** means for each Day, expressed in EUR/kWh, the lowest of the Zig Day-ahead, the SMPsell and the FGPsell.

Gross Calorific Value or **GCV** means that quantity of heat, expressed in kWh, produced by the complete combustion of one (1) normal cubic metre of Natural Gas or Natural Gas at twenty-five (25) degrees Celsius and an absolute pressure of one decimal zero one three two five (1.01325) bar with excess air at the same

temperature and pressure as the Natural Gas or the Natural Gas when the products of combustion are cooled to twenty-five (25) degrees Celsius and when the water formed by combustion is condensed to the liquid state and the products of combustion contain the same total mass of water vapour as the Natural Gas or the Natural Gas and air before combustion.

H-Gas or **H-Natural Gas** means Natural Gas having a nominal Gross Calorific Value nominal of eleven comma six three (11,63) kWh/m³(n) and within the Natural Gas quality specifications of the Transmission System.

Indicative Program for Storage or **PIT Storage** means the Indicative Program published by the Operator in accordance with the Code of Conduct.

Injection means the injection of Natural Gas from the Border to Border Transmission System in the Virtual Storage.

Injection Capacity means the Capacity, expressed in kWh/h, which can be used to inject Natural Gas from the Border to Border Transmission System in the Virtual Storage.

Injection Nomination means a Nomination, expressed in kWh, for Injection by the User at the Exchange Point for Virtual Storage.

Joule or **J** shall be identical to the definition of the derived "SI unit of quantity of heat J" as defined in ISO 1000 SI units and recommendations for the use of their multiples and of certain other units.

Kilowatt-hour or **kWh** means the "Unit of Energy" as defined in the ISO 1000 SI units and recommendations for the use of their multiples and of certain other units and equals three decimal six million (3,6 10⁶) joules.

Lending means the lending of Natural Gas from the Virtual Storage.

Lending Capacity means the Capacity, expressed in kWh, which can be used to lend Natural Gas from the Virtual Storage.

Master Agreement for Transport and Related Services or **MATRS** means the standard agreement concluded between the Transporter and a user of the Domestic Transmission System.

Master Transit Services Agreement or **MTSA** means the standard agreement concluded between the Transporter and a user of the Border to Border Transmission System.

Month means the period beginning at 00:00 hours (Belgian time) on the first Day of any calendar month and ending at 23:59 hours (Belgian time) on the last Day of the same calendar month, and "Monthly" shall be construed accordingly.

MTSR_{supply} H means the Domestic Transmission Services subscribed by the Shipper on the H-Gas grid, expressed in m³(n)/h, to which the Shipper is entitled at a supply point, in accordance with the corresponding MATRS.

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

Network Code shall have the meaning as defined in the Code of Conduct.

Nomination(s) means the prior notification by the:

- (i) Shipper to the Transporter of the part of the allocated service it wishes to use for transport; or,
- (ii) User to the Operator of the part of the Real Capacity to be realized for Virtual Storage.

Normal Cubic Meter or $m^3(n)$ means the quantity of Natural Gas, expressed in $m^3(n)$, which at zero (0) degree Celsius and at an absolute pressure of one decimal zero one three two five (1.01325) bar and when free of water vapour occupies the volume of one (1) cubic meter.

Operating Procedures means the procedures in Attachment C, as supplemented, amended or otherwise modified from time to time.

Other User(s) of the Virtual Storage or “**Other User(s)**” means a party who has signed a virtual storage agreement in substantially the same form as this Agreement.

Parking means the parking of Natural Gas from the User in the Virtual Storage.

Parking Capacity means the Capacity, expressed in kWh, which can be used to park Natural Gas in the Virtual Storage.

Primary Market means the market of Service which are directly offered by the Operator.

Priority Applicant means in the first round of the Service Allocation, the Applicant for Virtual Storage Service which has subscribed to Domestic Transmission Services on the H-Gas grid ($MTSR_{supplyH}$).

Priority User means, in the first round of the Service Allocation, the User who has subscribed to Domestic Transmission Services on the H-Gas grid ($MTSR_{supplyH}$).

Provisional or Steering Allocation means the amount of Natural Gas, expressed in kWh or in $m^3(n)/h$, allocated between User and Other Users for a given Hour on the basis of Gas Allocation Rules applicable at the Exchange Point for Virtual Storage.

Real Capacity means that part of a Subscribed Capacity at the VSI ZEE and at the VSI EYN, as the case may be, which is at the disposal of the User for Nomination after applying the reduction to the Subscribed Capacities, expressed in the corresponding units.

Real Injection Capacity means the Real Capacity, which is at the disposal of the User for injection of Natural Gas after applying the reduction to the Subscribed Capacities, expressed in the corresponding units.

Real Lending Capacity means the Real Capacity, which is at the disposal of the User for lending of Natural Gas after applying the reduction to the Subscribed Capacities, expressed in the corresponding units.

Real Parking Capacity means the Real Capacity, which is at the disposal of the User for parking of Natural Gas after applying the reduction to the Subscribed Capacities, expressed in the corresponding units.

Real Withdrawal Capacity means the Real Capacity, which is at the disposal of the User for the withdrawal of Natural Gas after applying the reduction to the Subscribed Capacities, expressed in the corresponding units.

Reasonable and Prudent Operator means the standard of care to be exercised by a Party in performing its obligations hereunder shall mean that degree of diligence, prudence and foresight reasonably and ordinarily exercised by experienced operators engaged in the same line of business under the same or similar circumstances and conditions having due consideration to the interest of the other Party under this Agreement.

Regulated Tariffs means the tariffs for the Service as approved by the CREG, pursuant to the Gas Act and the Tariff Decree.

Renomination means a Nomination, expressed in kWh, which is made after 14:00 hours of the day before the Gas Day and which replaces earlier Nominations for that Gas Day in accordance with the Operating Procedures.

Representative of the User or User's Representative means any natural person or corporate entity that negotiates in name of and/or for the account of the User, appointed pursuant to and in accordance with to Article 17.4.

Request(s) means the request to obtain access to the Virtual Storage by means of a Service Request Form.

Run-off means the rule applicable to the User in case of exceeding (excess or shortfall) of his GIS, in accordance with the Operating Procedures.

Run-off Period means the period starting as from the exceeding or shortfall of the GIS until the end date as defined under the Run-off rules in the Operating Procedures.

Run-off Settlement means the Settlement operated by the Operator in case of Run-off, according to the Operating Procedures.

Run-off Settlement Fee means the fee invoiced to and paid by the User in case of Run-off Settlement, according to the Operating Procedures.

Secondary Market means all the Service transactions that do not take place on the Primary Market.

Selected Unit Price means the unit price per SBU selected from the BMC procedure, expressed in €/SBU/year.

Service Allocation means the allocation, of the Available Service by the Operator between the User and the Other Users in accordance with the Service Allocation Rules.

Service Allocation Rules means the rules which determine how Service is allocated between User and the Other Users.

Service End Date means the last Gas Day of the Service Period.

Service Fee(s) means the amounts, expressed in EUR, invoiced to and payable on a Monthly basis, for the Service subscribed to under this Agreement.

Service Period means the period during which the User shall have subscribed to any Service under this Agreement as mentioned in SRFC countersigned by the Operator.

Service Request Form for Contracting or SRFC means the form provided for in Attachment A, which the User shall use to submit a binding Request, in accordance with Attachment A of this Agreement.

Service Request Form for Quotation or SRFQ means the form provided for in Attachment A, which the User or an Applicant shall use to submit a non-binding Request, in accordance with Attachment A of this Agreement.

Service Start Date means the start date of the Service Period.

Service Subscription means the contracting of Yearly Service by the User, in accordance with Attachment A of this Agreement.

Settlement means a correction on a Service amount, either in Natural Gas or in cash, due to the Gas Allocations settlements, according to the Operating Procedures.

Settlement Fee means the fee invoiced to and paid by the User in case of Settlement, according to the Operating Procedures, which includes the Run-off Settlement Fee and the Emergency Settlement Fee.

Shipper means any person or company from or to which the Natural Gas will be transferred by the User for transportation of Natural Gas in the Transmission System at the Exchange Point for Virtual Storage under this Agreement.

Standard Bundled Unit or SBU means the bundle of Service which are commercialized by the Operator on a yearly basis.

Start Date means the date of signature of this Agreement as set forth on the last page of the Articles of Agreement.

Subscribed Capacity means the Injection Capacity and/or Lending Capacity and/or Parking Capacity and/or Withdrawal Capacity, expressed in $m^3(n)/h$, $m^3(n)$, or kWh, subscribed to by the User according to this Agreement.

Subscription means the contracting of a Virtual Storage Service by the User, in accordance with Attachment A of this Agreement.

System Marginal Buy Price or **SMPbuy** means for a specific Day, the purchase price expressed in EUR/kWh on the on-the-day commodity market of National Grid Gas in the United Kingdom, determined by National Grid plc.

System Marginal Sell Price or **SMPsell** means for a specific Day, the sell price expressed in EUR/kWh on the on-the-day commodity market of National Grid Gas in the United Kingdom, determined by National Grid plc.

Total Fee means the sum of the Service Fee(s) and the Settlement Fee(s) due on a Monthly basis under Article 7.1 of this Agreement.

Total Storage Capacity means the maximum volume, expressed in kWh which can be stored (Parking Capacity and Lending Capacity) at the Virtual Storage.

Transition Time means the period of time during which the User has to adapt its GIS level within its Real Parking Capacity and Lending Capacity.

Transporter means the operator of the Belgian Transmission System, being Fluxys NV/SA, to which the Virtual Storage is connected at the Exchange Point for Virtual Storage.

Transition Agreement or **TA** means the agreement concluded between the Transporter and a user, for the transition to the MTSA of the Border to Border Transmission System.

Transmission System means the high pressure Natural Gas system needed to perform Border to Border Transmission Entry/Exit Services and Domestic Transmission Services.

Validated Allocation means the Gas Allocation (of Injection, Withdrawal and Gas In Storage), expressed in kWh, to the User and Other Users deemed to confirmed Nominations and on applicable Gas Allocation rules.

Validation means the confirmation by the Operator of a Nomination submitted by the User, in accordance with the provisions set out in the Operating Procedures.

Virtual Storage(s) means the virtual storages which are used for the Injection, Parking, Lending and Withdrawal of Natural Gas, as provided in this Agreement.

Virtual Storage Service or **Service** means the service related to the Virtual Storage and provided by the Operator in accordance with this Agreement, which specified a.o. the Injection Capacities, Parking Capacities, Lending Capacities and Withdrawal Capacities the User is entitled to.

VSI Eynatten or **VSI EYN** means the part of the Virtual Storage Service located in the Eynatten zone.

VSI Zeebrugge or **VSI ZEE** means the part of the Virtual Storage Service located in the Zeebrugge zone.

Week means the period beginning at 06:00 (Belgian time) on a Monday and ending at 06:00h (Belgian time) the next Monday, and “**Weekly**” shall be construed accordingly.

Withdrawal means the withdrawal of Gas In Storage from the Virtual Storage for redelivery at the Exchange Point for Virtual Storage.

Withdrawal Capacity means the Service, expressed in m³(n)/h, which can be used to withdraw Natural Gas from the Virtual Storage.

Withdrawal Nomination or **WN** means a Nomination for Withdrawal by the User at the Exchange Point for Virtual Storage, expressed in kWh.

Working Day means each calendar day, except Saturdays, Sundays and Belgian legal holidays.

Year means a period of twelve (12) Months, and “**Yearly**” shall be construed accordingly.

Yearly Service means Service which is offered by the Operator for a period within a Contract Year.

ZIG Day-Ahead means as the case may be, Dow Jones Zeebrugge Day-ahead Base Index for Natural Gas or Dow Jones Zeebrugge Weekend Base Index for Natural Gas, expressed in €/kWh.

- 1.2 References to Recitals, Articles and Attachments are to recitals, articles and attachments of this Agreement.
- 1.3 The headings to the Articles of Agreement shall not affect their interpretation.
- 1.4 Words importing the singular include the plural and vice versa, words importing a gender include every gender.
- 1.5 References to a "company" shall be construed so as to include any company, corporation or other corporate body, wherever and however incorporated or established.
- 1.6 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).
- 1.7 Attachments to this Agreement shall be an integral part of this Agreement.
- 1.8 In the event of any inconsistency or conflict between the Articles of Agreement and the Attachments of this Agreement, the following order of priority shall apply:
 - (i) Articles 1 to 20 (including);
 - (ii) Attachment A - Service;
 - (iii) Attachment B - Service Fees;

- (iv) Attachment C - Operating Procedures;
- (v) Attachment E – Terms and conditions for use and access of Extranet Storage and of Webtrack Storage, and;
- (vi) Attachment D – Contact Details.

2. OBJECT

The object of this Agreement is to lay down the terms and conditions upon which the User will be able, on and from the Start Date, to subscribe to the Virtual Storage Service and upon which the Operator shall perform said Virtual Storage Service.

3. OPERATION OF THE STORAGE SYSTEM

- 3.1 The Operator shall operate the Virtual Storage in accordance with the standards of a Reasonable and Prudent Operator and shall make all reasonable efforts to facilitate the day to day operations of the Injection, Parking, Withdrawal and Lending of Natural Gas hereunder, in accordance with Attachment C.
- 3.2 The Operator, acting as Reasonable and Prudent Operator, has the right to interrupt or reduce Virtual Storage Service in accordance with Attachment C, without any indemnity being due to User.

The Operator shall, in the case of reduction or interruption as referred to here above, notify the User, within the applicable period, of the Real Injection Capacity, Withdrawal Capacity, Parking Capacity and Lending Capacity. During such reduction or shut-off the User shall, upon such notification, reduce or shut off its Virtual Storage Service accordingly, in accordance with Attachment C.

- 3.3 The Parties shall respect and apply the Operating Procedures attached hereto as Attachment C.

4. VIRTUAL STORAGE SERVICE

- 4.1 Subject to the terms and conditions hereunder, the Operator shall from the Service Start Date perform the Virtual Storage Service, for the relevant Service Period.
- 4.2 Virtual Storage Service are subscribed through Standard Bundled Units, as specified in Attachment A of this Agreement.
- 4.3 Following Nomination and Confirmation of the Nominations, the Operator shall, during each hour of the Gas Day in accordance with the Operating Procedures:
 - (i) offtake the Natural Gas made available by the User at the Exchange Point for Virtual Storage;
 - (ii) inject Natural Gas in the Virtual Storage;

- (iii) park Natural Gas in the Virtual Storage;
 - (iv) withdraw Natural Gas from the Virtual Storage; and,
 - (v) lend Natural Gas from the Virtual Storage.
- 4.4 Risk related to the Natural Gas shall pass to the Operator at the Exchange Point for Virtual Storage upon delivery by the User to the Operator.
- 4.5 Risk related to any Natural Gas shall pass to the User at the Exchange Point for Virtual Storage upon redelivery by the Operator to the User.
- 4.6 Subject to and without prejudice to the other provisions of this Agreement, Parties acknowledge and agree that:
- (i) the Operator may store Natural Gas of the User with Natural Gas received from, *inter alia*, Other Users; and,
 - (ii) the Operator may redeliver Natural Gas to the User as part of a commingled stream with Natural Gas redelivered to, *inter alia*, Other Users.

5. VIRTUAL STORAGE SERVICE RIGHTS

- 5.1 The Operator shall, subject to the terms and conditions of this Agreement, for each Virtual Storage Service for the period and quantities set out in the signed Services Confirmation Form for Contracting, offtake, store and redeliver such quantities of Natural Gas, as may be required, up to a maximum rate of the User's Real Capacities.
- 5.2 During each hour of the Service Period, total or part of the Subscribed Capacities shall be made available to the User as Real Capacities in accordance with the provisions of this Agreement. The calculation of the Real Capacities is described in the Operating Procedures.
- 5.3 Nominations shall be made in accordance with the Operating Procedures, in order to inject, store or withdraw quantities of Natural Gas into/in/from the Virtual Storage.

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

The Operator calculates the Injection and Withdrawal Allocations and the Gas in Storage Allocations in energy in accordance with the Operating Procedures.

6. VIRTUAL STORAGE SERVICE FEES

6.1 General

As from the Service Start Date, and insofar the User has subscribed to Virtual Storage Service under this Agreement, a Total Fee consisting of:

- (i) the Service Fee(s);
- (ii) the Run-off Settlement Fee; and,
- (iii) the Emergency Settlement Fee, if applicable;

shall be calculated and invoiced on a Monthly basis according to the Regulated Tariffs as applicable from time to time, and in accordance with Attachment B.

In the event of any modification to the Regulated Tariffs, the Total Fee provided for in this Article 6.1 shall be adapted as from the calendar day of the entering into force of such modifications.

6.2 Taxes

The Total Fee due under Article 6.1 and Attachment B is exclusive of any taxes, duties or levies of a similar nature. The Operator is entitled to add to the amount due by the User all taxes, duties or levies of a similar nature imposed on the Operator by any competent authority with respect to or affecting the Virtual Storage Service performed in favour of the User by the Operator under this Agreement (including but not limited to VAT, the levies of the CREG, excise or any taxes or levies whatsoever imposed by public authorities, but excluding taxes on income, profit and share capital).

7. INVOICING AND PAYMENT

7.1 As from the Service Start Date and insofar the User has subscribed to Virtual Storage Service under this Agreement, the Operator shall on or about the tenth (10th) Day of each Month render an invoice to the User showing:

- (i) the Service Fee calculated provisionally according to Article 6 and Attachment B to be paid by the User for the Virtual Storage Service of the said Month and the Settlement Fee;
- (ii) any correction on the Service Fees and/or Settlement Fees paid for the previous three (3) Months; and,
- (iii) any other amounts to be paid by the User for the previous eighteen (18) Months.

All invoices shall include a detailed calculation of the Total Fee, mentioning amongst others the Virtual Storage Service and the values of the relevant parameters and indexes if applicable, the invoicing date, the bank account information, the payment terms, the currency and the interest rates if applicable.

7.2 Such invoices may be rendered electronically or by telefax during normal office hours in which case the telefax shall as soon as practicable be confirmed by letter. The Parties agree that the attachments to the invoice may be rendered separately by e-mail.

- 7.3 The amounts of the invoices shall be paid in Euros at the latest on the Due Date, except in so far manifest calculation errors have occurred, the residual part remaining due.

In case the User has disputed part or all of the Total Fees, the User shall pay such disputed part(s) and the VAT at the latest on the aforementioned due date and the Parties shall resolve the dispute afterwards. In no case the User shall have to pay earlier than ten (10) calendar days after receipt of the invoices; if this day of payment is not a Banking Day in Belgium, the first following Banking Day in Belgium shall apply.

- 7.4 In the event that the Operator needs information from the User in order to establish the invoices and the User has this information available, the User shall make available or shall cause to be made available this information to the Operator within ten (10) Working Days after being requested to do so by the Operator.
- 7.5 Without prejudice to Article 7.3, payment shall be deemed to have been made when the invoiced amount shall have been credited to the Operator's bank and any 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.
- 7.6 If at any time payment has not been made within the period specified in Article 7.3, the User shall pay to the Operator the invoiced amount plus daily interest for each Day payment is overdue. Said daily interest shall be calculated in accordance with the EURIBOR three (3) months rate on the Due Date increased by one hundred (100) basis points.
- 7.7 If the User pays an invoice which subsequently turns out to be incorrect, the User shall have the right to claim a daily interest on such part of the invoice paid by the User which had not been correctly invoiced, calculated in accordance with EURIBOR three (3) months rate increased by one hundred (100) basis points for each Day since payment has been made.
- 7.8 Any invoice not disputed within eighteen (18) Months after the Due Date for payment shall be considered as final between the Parties.

8. MEASUREMENT AND TESTING

For the Virtual Storage measurements are not applicable, as all Allocations will be deemed to Nomination, in accordance with the Operating Procedures.

9. EMERGENCY

In case of Emergency, the Operator, acting as Reasonable and Prudent Operator, shall have the right to impose all necessary actions to the User, such as mandatory Withdrawal or interruption (complete or partial) of Withdrawal and/or Injection, as specified in the Operating Procedures.

10. WARRANTIES

- 10.1 The User warrants the title to all Natural Gas delivered by it or for its account at the Exchange Point for Virtual Storage to the Operator for Virtual Storage Service hereunder, and warrants that all such Natural Gas is free from all liens, claims, assessments and encumbrances of any kind or nature.
- 10.2 The Operator hereby warrants that the Natural Gas redelivered to the User at the Exchange Point for Virtual Storage shall be free from all liens, claims, assessments and encumbrances of any kind or nature.

11. LIABILITY

11.1 General

The circumstances under which the Parties shall be liable (whether in contract, in tort or otherwise) are listed exhaustively in the present Article 11 and shall apply for any rights, claims or indemnifications to which the other Party and its Affiliates may be entitled to regardless of the circumstances under which they occur.

11.2 Limitation of liability

11.2.1 Except in case of wilful misconduct or fraud, the Operator shall only be liable towards the User:

- (i) for Direct Material Damages; and,
- (ii) in case of gross negligence.

Any other damages, such as loss of use, loss of income, loss of production, loss of profit or interest and any indirect damages are expressly excluded.

11.2.2 Notwithstanding Article 11.2.1, in case of loss of Natural Gas due to the fault of the Operator, the Operator shall be liable towards the User for the value of the Gas In Storage. For these purposes, the value of the Natural Gas shall be determined on the basis of the average ZIG Day Ahead price of Natural Gas of the Day when the breach of contract or tort occurred.

11.2.3 Without prejudice to Article 11.2.2, the Operator's aggregate maximum liability towards the User shall be limited:

- (a) per Contract Year: to ten percent (10%) of the Service Fees due for the past six (6) Months; and,
- (b) per event: to five percent (5%) of the Service Fees due for the past six (6) Months.

11.2.4 Each Party shall indemnify, hold harmless and defend the other Party from and against any claim, demand, cause of action, expense or liability whatsoever

(including, but not limited to the costs of litigation, and whether arising in contract or otherwise), from or in respect of any third party, to the extent to which such claim, demand, cause of action, expense or liability results from or is caused by the actions or omissions of the first named Party.

11.3 Waiver

Except in case of wilful misconduct, gross negligence or fraud, the Parties agree to mutually waive any claim they may have against each other for death and/or personal injury suffered by their personnel or their proxy holders.

The Parties shall cause their insurers to waive their rights of recourse or subrogation they may have against the other Party.

12. FORCE MAJEURE

12.1 The term "**Force Majeure**" shall mean any unforeseeable and insurmountable event beyond the control of a Party acting in accordance with the standards of a Reasonable and Prudent Operator which temporarily or definitively makes illegal or impossible for such Party to fulfil any obligation under this Agreement, other than the obligation to pay monies here under.

Events which, provided they fulfil the requirements stated in the preceding sentence, constitute Force Majeure, shall include, but not be limited to: forces of nature, strikes, lock-outs, 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, refusal by the authorities to maintain any authorisations, wars, insurrections, riots, landslides, fires, floods, earthquakes, explosions, breakage or accidents to any transportation or storage facilities or other plant or equipment, force majeure on behalf of the Operator's suppliers necessary for the implementation of this Agreement.

Any labour dispute shall be settled at the sole discretion of the Party having such dispute.

Any event of force majeure affecting a Shipper shall not automatically constitute a Force Majeure event within this Agreement for the User.

12.2 If for reason of Force Majeure either Party is rendered unable wholly or in part to carry out its obligations under this Agreement, then the obligations of the Party concerned, as long as and to the extent that the obligations are affected by such Force Majeure, shall be suspended.

However, if the User is affected by Force Majeure, the Service Fee according to Article 6 shall continue to be due by the User, however with a reduction of five (5) percent, without prejudice to Article 12.3.

- 12.3 In case an event of Force Majeure affecting one Party has serious consequences for either or both Parties and if it is foreseeable that the circumstances of Force Majeure affecting one Party and/or the effects thereof may exceed a period of three (3) Months or a shorter period as the Parties may agree, the Parties shall negotiate an adjustment of this Agreement upon written notification of one of the Parties. In case the Parties cannot agree on such adjustment within one (1) Month as from the date of such written notification, each Party has the right to terminate the Agreement without any damages or penalties due, such termination however being effective the earliest at the expiry of the aforementioned period of three (3) Months. For the avoidance of doubt, in case of early termination of this Agreement, in accordance with this paragraph, any and all amounts incurred by either Party pursuant to this Agreement up to the date of such early termination, including amongst others damages, costs, expenses and losses, shall remain due by such Party.
- 12.4 A Party claiming relief on account of Force Majeure shall:
- (i) forthwith notify the other Party of the event constituting Force Majeure and shall with reasonable diligence furnish all available information on the cause of the event and estimate the time required to remedy the Force Majeure situation; and,
 - (ii) forthwith take all reasonably practicable steps to rectify the circumstances preventing the performance of its obligations and to minimise the damage caused thereby.

13. Left intentionally blank

14. CREDITWORTHINESS

- 14.1 If during the term of this Agreement the financial strength of the User is such that the Operator has reasonable and objective grounds for considering that the User may not and/or ceases to be able to perform its obligations under this Agreement, the Operator may notify the User of such reasonable and objective grounds and request that the User promptly provides rolling financial security (the "**Financial Security**") in an amount equal to the estimated amount of the User's obligations to the Operator under this Agreement for the following three (3) Months in order to secure the User's performance of this Agreement, which amount shall however be rounded off upwards to the first ten thousand Euro (EUR 10,000.00), or any other amount decided by the Operator. Throughout the term of this Agreement, the User shall keep the Operator duly informed of any material change in its ability to perform its obligations under this Agreement, and any failure to provide the Operator with such information within a reasonable period of time, shall constitute a material breach of the User's obligations under this Agreement. For the avoidance of doubt, the Operator shall have the right to ask the User a

modification of the amount of the Financial Security in case of change of the Virtual Storage Service subscribed.

14.2 Upon receipt of such request from the Operator, the User shall within fifteen (15) Banking Days provide the Operator with the Financial Security. Notwithstanding the provision of the Financial Security, the User may dispute the grounds upon which the Operator has based its claim for the provision of the Financial Security. In such event, the User shall, notwithstanding the referenced dispute, provide the Financial Security and the provisions of Article 14.9 shall apply.

14.3 The Financial Security shall be in the form of:

- (i) a bank guarantee;
- (ii) company guarantee from a company whose financial standing is acceptable to the Operator;
- (iii) prepayment;
- (iv) (standby) letter of credit; and/or,
- (v) any other form of security acceptable to the Operator.

The form of the Financial Security shall have to be acceptable to the Operator, such acceptance not to be unreasonably withheld.

14.4 The Financial Security may be drawn upon by the Operator in the event of non-payment by the User of any amount due to the Operator under this Agreement.

14.5 If the Operator, due to the User's failure to pay any amount due, draws on such the Financial Security, the User shall within fifteen (15) Banking Days of such drawdown reinstate the Financial Security.

14.6 In the event the User fails to put and keep the Financial Security in place:

- (i) pursuant to and in accordance with Article 14; and,
- (ii) until the Operator notifies the User that the Financial Security is no longer required to be provided;

then the Operator shall have the immediate right, upon notice to the User, to suspend its Virtual Storage Service until the Operator receives confirmation that the Financial Security is in place. Such suspension shall not constitute a failure by the Operator to provide Virtual Storage Service to the User under this Agreement and the User shall have no rights in respect of such suspended Virtual Storage Service for as long as the Financial Security has not been provided.

14.7 At any time after the provision of the Financial Security, the User may give notice to the Operator that the reasonable objective grounds upon which the Operator based its request for the provision of the Financial Security no longer exist and that no other such grounds have arisen in the interim. In such event:

- (i) the Operator shall return the Financial Security to the User within thirty (30) Banking Days of receipt of such notice; or,

- (ii) retain the Financial Security and dispute such request pursuant to Article 14.9. In the event that the Operator disputes the User's claim, the User shall maintain the Financial Security while such dispute is being resolved.
- 14.8 If the financial strength of the provider of the Financial Security, while the Financial Security is in place, undergoes a material adverse change to such an extent that the Operator has reasonable and objective grounds for considering that such provider of the Financial Security will cease to have the financial strength and/or ability to perform its obligations associated with the Financial Security (which may be evidenced by the fact that such provider's financial status has deteriorated to such a level that the Operator would reject such provider under the standards set forth in Article 14.1), the Operator may notify the User of such reasonable and objective grounds and request that the User promptly provide replacement of the Financial Security in accordance with this Article 14 and the rights and obligations of the Operator and the User shall apply in relation to the provision of this replacement for the Financial Security. Upon receipt of such notice, the User shall, within fifteen (15) Banking Days, provide the Operator with the replacement of the Financial Security as requested by the Operator. Notwithstanding the provision of such replacement of the Financial Security, the User may dispute the grounds upon which the Operator has based its claim for the provision of such replacement of the Financial Security. In such event, the User shall, notwithstanding the referenced dispute, provide such replacement of the Financial Security and the provisions of Article 14.9 shall apply.
- 14.9 In the event a dispute arises as provided in Article 14.2, 14.7 or 14.8 the provisions of Article 19 shall apply to resolve such dispute. If as a result of the resolution of such dispute it is determined that the Operator in relation to Article 14.1 and 14.7 should not have requested or retained the Financial Security or in relation to Article 14.8 that the Operator should not have requested the replacement of the Financial Security, the Operator shall be responsible for all reasonable costs incurred by the User relating to the provision of such replacement of the Financial Security from the date of notice of such dispute.

15. TERM AND TERMINATION OF THE AGREEMENT

15.1 Term and duration of Agreement

This Agreement shall enter into force on the Start Date of this Agreement and shall be effective for an undetermined term until termination in accordance with the provisions of Articles 15.2 to 15.7 (inclusive) below.

15.2 Termination with immediate effect

In case the User has not subscribed to any Virtual Storage Service under this Agreement within twelve (12) Months after termination of all Virtual Storage Service, each Party shall be entitled to unilaterally terminate this Agreement with immediate effect, subject to written notice.

15.3 Termination and suspension by the Operator

The Operator shall be entitled to unilaterally terminate this Agreement:

- (i) or suspend this Agreement forthwith, subject to written notice, if:
 - (a) the User admits its inability to pay its debts as and when they fall due, or becomes insolvent or unable to pay its debts generally as and when they fall due; or,
 - (b) without prejudice to Article 7.3, the User fails to pay any sums owed under this Agreement within 30 Days following the receipt of a written notice, unless payment has been made in the meantime or unless the User has disputed such sums and duly justified such dispute and the Operator agrees that the User has reasonable grounds thereto; or,
- (ii) upon giving a three (3) Months prior written notice
- (iii) if and when the User ceases to be a Party to the MATRS, or to the TA or to the MTSA.

15.4 Termination of the Agreement by the User

The User may, subject to Article 16.3.2, terminate this Agreement by giving written notice to the other Party at latest twelve (12) Months prior to the requested termination date. Termination of this Agreement pursuant to and in accordance with Article 15.4 will take effect at the end of the Day prior to the termination date.

15.5 Termination by either Party

Each Party may by notice in writing to the other Party terminate or suspend at its own discretion, this Agreement, if any of the following events occur:

- (i) if the other Party is in breach of any substantial term, condition or provision of this Agreement other than the User's obligation to make payments under this Agreement or required by law and which has not been remedied within five (5) Working Days as from receipt of notice hereto;
- (ii) if a Party is in breach of any term, condition or provision of this Agreement or required by law other than those specified in (i) and other than the User's obligation to make payments under this Agreement and that Party has not taken corrective actions within one (1) Month as from the date of receiving the written notification by the other Party of any breach of any such terms, conditions or provisions of this Agreement or required by law;
- (iii) if the other Party is adjudicated or found bankrupt or insolvent or an order is made by any competent court or a resolution is passed by the other Party for its winding up or dissolution (other than for the purposes of a merger, reconstruction or amalgamation of the other Party whilst able to pay its debts as they fall due) or for the appointment of a liquidator or trustee or an order is made for the appointment of an administrator or conservator of the whole or a substantial part of the other Party's assets, rights or revenues; or,
- (iv) if the other Party is dissolved or in any case commits any act of bankruptcy or notorious bankruptcy or has a receiving order made against it or shall makes or negotiates for any composition or arrangement with or assignment for the benefit of its creditors.

15.6 Costs

On termination, the Parties shall pay to each other all costs and expenses including fees incurred and all arrears of fees, charges or other payments arising in respect of this Agreement or otherwise.

15.7 Rights and remedies

Termination, howsoever or whenever occasioned shall be subject to any rights and remedies the Parties may have under this Agreement or in law.

16. TERM AND TERMINATION OF VIRTUAL STORAGE SERVICE

16.1 Term of Virtual Storage Service

16.1.1 The Virtual Storage Service subscribed by the User under this Agreement shall have the duration as set out in the signed Service Request Form for Contracting.

16.1.2 Subject to availability, at the Exchange Point for Virtual Storage, Virtual Storage Service can be subscribed for the Contract year or the remaining Months within the Contract Year.

16.2 Suspension of Virtual Storage Service

Without prejudice to Article 15.3, in the event the User has failed to pay any invoice for the Virtual Storage Service within the time period referenced in Article 7.3:

- (i) within 5 (five) Working Days as from receipt by the User of a notice from the Operator hereto, the Operator shall be entitled to suspend provision of the Virtual Storage Service related to the invoices not paid for as long as such invoice remains unpaid; and,
- (ii) such suspension shall not constitute a failure by the Operator to provide Virtual Storage Service to the User under this Agreement and the User shall have no rights in respect of such suspended and/or terminated the Virtual Storage Service.

16.3 Expiry and termination of the Virtual Storage Service

16.3.1 Expiry of the Virtual Storage Service

Save for renewal in accordance with the procedure of Attachment A, the Virtual Storage Service shall expire automatically at the Service End Date specified in the signed Service Request Form for Contracting for the said Virtual Storage Service.

16.3.2 Termination of Virtual Storage Service by the User

The User shall be entitled to terminate a Virtual Storage Service at any time subject to payment to the Operator of an indemnity corresponding to:

- (i) 95% (ninety-five percent) of the total amounts to be invoiced under the Agreement (calculated on the basis of the Regulated Tariffs/tariffs, linked to capacity subscription, excluding conditions for the use to be invoiced for the relevant Virtual Storage Service for the remaining term of the said Virtual Storage Service if the said term exceeds nine (9) Months;

- (ii) 100% (one hundred percent) of the total amounts (calculated on the basis of tariffs linked to capacity subscription, excluding conditions for the use to be invoiced under the relevant Virtual Storage Service for the remaining term of the Virtual Storage Service if the said term is less than nine (9) Months.

16.3.3 Termination of Virtual Storage Service by the Operator

The Operator shall be entitled to terminate any Virtual Storage Service, which has been suspended by the Operator pursuant to and in accordance with Article 16.2 and remains unpaid for more than 10 (ten) Working Days.

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 telefax (in which event the telefax shall immediately be confirmed by letter) or by airmail letter, at the following addresses:

The Operator: Fluxys N.V./S.A.
Commercial Department
31 avenue des Arts
1040 BRUSSELS - BELGIUM
Telefax: +32 2 2820250

User: [●]

or at such address as each Party may from time to time modify in writing to the other Party. Such airmailed notices and routine communications, such as statements and invoices, shall be considered as fully delivered when deposited in the mail, as registered post, postage prepaid, to the appropriate address above specified. Telefax transmission report shall constitute evidence of receipt of notices and communications sent by telefax.

17.2 Confidentiality

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

17.2.2 This 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 Agreement, such confidential information may be disclosed to

- employees, agents, contractors, consultants, the Shippers, sellers of the Natural Gas and Other Users. In such case, such disclosing Party shall cause its employees, agents, contractors, consultants, customers, sellers of the Natural Gas and Other 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.
- 17.2.3 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 Agreement, the borrowing of funds, obtaining of insurance, sale of securities and in connection with required reports and applications to relevant governmental agencies.
- 17.2.4 However, the User or the 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 Agreement and subject to the first paragraph of this Article 17. In such case, such releasing Party shall ensure that its Affiliated Company shall execute written undertakings as to confidentiality.
- 17.2.5 This confidentiality obligation of Article 17 shall not apply to:
- (i) 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;
 - (ii) 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,
 - (iii) which the relevant Party is required by law, or regulation or by the requirements of any regulatory or other authority to disclose.
- 17.2.6 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 Agreement.

17.4 User's Representative

The 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:

- (i) give and receive all statements, notices and information hereunder;
- (ii) exercise the User's rights concerning measurement and testing at the Exchange Point for Virtual Storage; and,
- (iii) perform the User's rights at the Exchange Point for Virtual Storage.

Such appointment shall be notified to the 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 User's Representative as if the User had done or performed the same.

17.5 Severability

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

17.6 Waiver

The failure of a Party to this 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 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

Termination of this 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 there after may accrue in respect of any act or omission prior to such termination.

Termination shall not release the Parties from their obligations under Article 17.2 of this Agreement, which shall continue in force for a period of three (3) Years following termination.

17.8 Entire Agreement

This 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 Agreement, shall automatically terminate and extinguish as from that date, 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.

18. CHANGED CIRCUMSTANCES

User acknowledges that regulations regarding Virtual Storage Service (including applicable legal provisions) are evolving. If during the term of the 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 immediately apply to the Agreement as of the moment such change has become effective.

19. DISPUTES

All claims, disputes and other matters arising out of or relating to this Agreement which, in the opinion of one of the Parties, the Parties are unable to resolve by mutual agreement, shall exclusively and finally be settled by the courts of Brussels, unless otherwise agreed between the Parties.

20. APPLICABLE LAW

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

* * *

IN WITNESS WHEREOF

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

For and on behalf of the Parties:

For the Operator:

Name: [●]
Function: [●]

Name: [●]
Function: [●]

For the User:

Name: [●]
Function: [●]

Name: [●]
Function: [●]

For information purposes only