

**FLUXYS LNG NV/SA**

**and**

**[CLIENT]**

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**LNG AGREEMENT  
FOR LNG TRUCK LOADING  
at the Fluxys LNG Terminal in Zeebrugge**

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This LNG Agreement for LNG Truck Loading (hereafter the “LTL”) is made and entered into by and between:

- (1) **FLUXYS LNG NV/SA**, a public limited company incorporated in Belgium, with its registered office at Guimardstraat 4, 1040 Brussels, Belgium, registered at the Register for Legal Entities (RPR/RPM) under number 0426.047.853;

Duly represented by [●];

hereinafter “**Fluxys LNG**” or the “**Terminal Operator**”;

And:

- (2) [**COMPANY NAME**], a company incorporated in [COUNTRY], with its registered office at [ADDRESS], registered at the Register for Legal Entities (RPR/RPM) under number [NUMBER];

Duly represented by [●];

hereinafter the “**Client**”;

The Terminal Operator and the Client shall hereafter be individually referred to as a ‘**Party**’ and collectively as the ‘**Parties**’.

#### **WHEREAS:**

- A. The Terminal Operator owns and operates a liquefied natural gas (“**LNG**”) receiving terminal in Zeebrugge, Belgium (the “**LNG Terminal**”) and is engaged in the terminalling of LNG;
- B. The Client has executed or has the intention to execute an agreement for the supply of LNG with at least one of the Client’s Shippers or, as the case may be, the Client is its own Client’s Shipper having executed itself a LNG Agreement with Fluxys LNG;
- C. Client’s Shippers have executed LNG Agreements with the Terminal Operator for the delivery and storage of LNG at the LNG Terminal; and,
- D. The Client desires to purchase LNG Services, in accordance with the provisions of this LTL and the ACTL, from the Terminal Operator for the off-take of LNG made available by a Client’s Shipper who has LNG in stock at the LNG Terminal;
- E. This LTL has been set out in accordance with the Code of Conduct and has been approved by the CREG on [date].

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

# **1 DEFINITIONS AND INTERPRETATION**

## **1.1 DEFINITIONS**

Unless the context otherwise requires in this LTL and its attachments, capitalized words and expressions used in this LTL including its attachments and in any Service Confirmation Form shall have the meaning given to them in ACTL 5 .

## **1.2 INTERPRETATION**

In this LTL, unless the context otherwise requires:

- (a) reference to a 'person' shall be construed so as to include any 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);
- (b) reference to a 'company' shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- (c) reference to any person or company includes references to that person's or company's successors and permitted assignees;
- (d) the singular includes the plural and vice versa as appropriate, except where appropriate for the terms Client, Party and Terminal Operator;
- (e) reference to any gender includes the other gender;
- (f) unless otherwise specifically stated, references to an 'Attachment' and a 'Clause' shall be to an attachment and a clause in this LTL;
- (g) unless otherwise specifically stated, references to 'GC' or 'ACTL' shall be to a section in respectively the General Conditions or the LNG Access Code for Truck Loading;
- (h) headings and the table of contents are inserted for convenience only and do not affect the construction or interpretation of this LTL;
- (i) unless otherwise stated, reference to an agreement, instrument or procedures is to the same as amended, novated, modified or replaced from time to time;
- (j) reference to a statute, by-law, regulation, rule, delegated legislation or order is to the same as amended, modified or replaced, from time to time, and to any by-law, regulation, rule, delegated legislation or order made there under; and,
- (k) In case an index or reference used or referred to in this LTL 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 LTL, Terminal Operator shall, after having consulted the Client, 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 SCOPE OF THIS LTL**

### **2.1 OBJECT**

The object of this LTL is to lay down the terms and conditions upon which the Client will be able, on the Service Start Date, to subscribe to LNG Truck Loading Services – and if applicable the LNG Truck Cool Down Services – and LNG Truck Approval Services as the case may be and upon which the Terminal Operator shall perform said LNG Services.

Any transaction between the Client and its Client's Shipper is beyond the scope of this LTL.

For the avoidance of doubt, the provisions of this LTL and its attachments will be applicable only to the extent that the Client has subscribed LNG Truck Loading Services – and if applicable the LNG Truck Cool Down Services – and LNG Truck Approval Services as the case may be and only for the performance of such subscribed Services.

### **2.2 CONTENTS**

This LTL comprises the provisions contained herein, together with the LNG Truck Loading Service Confirmation Form and the LNG Truck Approval Service Confirmation Form (the "Service Confirmation") in Attachment A, the general conditions contained in Attachment B (the "General Conditions") which shall all form an integral part of this LTL. By signing this LTL, each of Terminal Operator and Client acknowledges to be bound by and have taken knowledge of all provisions set out herein, including, without limitation, the General Conditions as may be changed from time to time after approval by the CREG.

### **2.3 LNG ACCESS CODE FOR LNG TRUCK LOADING**

Any LNG Service provided by Terminal Operator to Client under this LTL shall also be governed by the procedures, rules and regulations contained in the Access Code for LNG Truck Loading (the "ACTL") as approved by the CREG. By signing this LTL, each of the Terminal Operator and Client acknowledges to be bound by and have taken knowledge of all provisions set out in the Access Code for LNG Truck Loading as may be changed from time to time after approval by the CREG.

### **2.4 LNG TERMINALLING PROGRAM**

The LNG Terminalling Program as approved by the CREG describes the LNG services which are offered by the Terminal Operator and which may be subscribed by the Client under this LTL. By signing this LTL, each of the Terminal Operator and Client acknowledges to have taken knowledge of the content of the LNG Terminalling Program as may be changed from time to time after approval by the CREG.

### **3      LNG SERVICES**

#### **3.1    PROVISION OF LNG SERVICES**

During the Contract Term, Terminal Operator agrees to provide to Client and Client agrees to purchase from Terminal Operator LNG Truck Loading Services, LNG Truck Cool Down Services (if applicable), and LNG Truck Approval Services (as the case may be), set out in any Service Confirmation Form as enclosed in attachment A and provided by Terminal Operator to Client under this LTL, in accordance with the terms and conditions contained in this LTL.

#### **3.2    CONFIRMATION OF SUBSCRIPTION OF LNG SERVICES**

During the Contract Term, Client may submit requests to subscribe to LNG Services under this LTL from Terminal Operator in accordance with the Access Code for LNG Truck Loading. Any Service Confirmation Form duly completed and executed in accordance with the Access Code for LNG Truck Loading shall become part of this LTL and be added in Attachment A to this LTL.

### **4      TERM OF THE LTL**

#### **4.1    EFFECTIVE DATE**

The Effective Date, on which this LTL will enter into force and effect, shall be the date of signing this LTL.

#### **4.2    CONTRACT TERM**

This LTL shall remain in full force and effect for an undetermined term, unless terminated in accordance with this LTL.

#### **4.3    SURVIVAL**

Termination or expiry of this LTL does not affect the provisions of this LTL which are expressly stated to survive termination or which are necessary to allow the Parties to enforce any rights associated with such provisions or rights which arose prior to such termination.

## **5 CONTACT DETAILS**

5.1 Any notice which a Party is required, or permitted, to give pursuant to this LTL or the Access Code for LNG Truck Loading, including invoices shall be deemed to have been properly given, except if expressly otherwise provided:

- (i) if delivered by hand to the Party in question upon actual receipt;
- (ii) if sent by registered mail (registered airmail if international), upon actual receipt; or
- (iii) if transmitted by fax, as and when a positive transmission report is issued at the sender's end.

5.2 Any notice, demand, offer or other written instrument by Client required or permitted to be given pursuant to this LTL and the ACTL shall be sent to the contact persons mentioned in the contact details sheet as published on the Fluxys LNG website.

Any notice, demand, offer or other written instrument by Fluxys LNG required or permitted to be given pursuant to this LTL and the ACTL shall be sent the contact persons mentioned contact details sheet of the Client added to attachment A of this Agreement.

5.3 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 LTL.

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This LTL is made up in Brussels on [●] in two (2) original copies of which each Party acknowledges having received one (1) original copy, unless the LTL has been executed by means of an electronic signature in which case each Party shall be provided with an electronic copy, bearing the electronic signature of each Party.

FOR THE PARTIES:

For and on behalf of Fluxys LNG NV/SA, as Terminal Operator,

Name :  
Title:

Name :  
Title:

For and on behalf of [Client], as Client,

Name :  
Title:

Name :  
Title:

## **ATTACHMENT A**

### **SERVICE CONFIRMATIONS**

(Service Confirmation Forms to be inserted upon execution of such Service Confirmation Form)

**ATTACHMENT B**  
**GENERAL CONDITIONS FOR TRUCK LOADING**



# **1 SERVICES**

## **1.1 LNG TRUCK APPROVAL SERVICES**

- 1.1.1 Subject to the terms and conditions of this LTL and in accordance with the LNG Truck Approval Procedure as set out in the Access Code for LNG Truck Loading, the Terminal Operator shall as from the Effective Date perform, and the Client shall pay for, the LNG Truck Approval Service. Terminal Operator shall under no circumstances be obliged to perform more LNG Truck Approval Services than subscribed.

## **1.2 LNG TRUCK LOADING SERVICES AND LNG TRUCK COOL DOWN SERVICES**

- 1.2.1 Subject to the terms and conditions of this LTL and in accordance with the Access Code for LNG Truck Loading, the Terminal Operator shall as from the Effective Date perform, and the Client shall pay for, the LNG Truck Loading including if applicable the LNG Truck Cool Down Services as the Client may have subscribed pursuant to any Service Confirmation Form (attachment A of this LTL), for the relevant Service Term. The Terminal Operator shall under no circumstances be obliged to perform more LNG Truck Loading Services than the Truck Loading Services Rights subscribed, as set out in the Service Confirmation Forms.
- 1.2.2 Subject to the above, the Terminal Operator shall redeliver to Client such quantity of LNG, which is as close as possible to the Requested Quantity of LNG, based on the GHV and the density of the LNG.

## **1.3 LIMIT OF TERMINAL OPERATOR'S OBLIGATION**

- 1.3.1 The Terminal Operator shall at no time be obliged to redeliver to the Client at the Redelivery Point for Truck Loading a quantity of LNG, in energy terms (expressed in kWh), greater than Client's Shipper's Gas in Storage account of LNG at the LNG Terminal at that time. In case the Client's Shipper's Gas in Storage is less than the Requested Quantity of LNG to be redelivered to the Client, the Terminal Operator shall inform as soon as reasonably possible the Client and at the latest 24 hours in advance.
- 1.3.2 Without prejudice to ACTL 3.5 and ACTL 3.7, the Terminal Operator may decide to redeliver to Client a quantity of LNG at the Redelivery Point for Truck Loading which is less than the Requested Quantity of LNG in case the Terminal Operator, at its sole discretion, has reasonable grounds (including but not limited to adverse weather conditions, pressure in the tanks, etc.) to believe that a threat to the heel of the LNG Terminal would occur in case of redelivery of the total Requested Quantity of LNG. In such case, the Terminal Operator shall inform as soon as reasonably possible the Client in advance.

## **2 QUALITY**

- 2.1 LNG delivered by Terminal Operator to Client at the Redelivery Point for Truck Loading pursuant to and in accordance with this LTL and the Access Code for LNG Truck Loading, shall comply with the Specification for the Redelivery Point for Truck Loading, as provided for in ACTL 3.3.
- 2.2 As soon as Terminal Operator knows or has reasons to believe that LNG being redelivered to Client may not be in compliance with the applicable Specification as per the present ACTL 3.3, Terminal Operator shall notify Client with the details of such non compliance if known, and give a good faith estimate of the probable duration of such non-compliance. Client shall be entitled to either (i) accept such Off-Specification LNG in which case Terminal Operator could in no case be held liable for any damages incurred by the Client due to such non compliancy or (ii) to refuse the Off-Specification LNG.
- 2.3 Neither Party can be held liable for damages arising out of the ageing of LNG to be delivered under this LTL, it being understood that the Terminal Operator shall make reasonable endeavours to minimize the consequences of the ageing.
- 2.4 Without prejudice to GC 9, the Client is liable without any restriction for any damages incurred by the Terminal Operator resulting from the transfer of any substances from the Client's truck to the impacted part of the LNG Terminal.

## **3 MEASUREMENT & TESTING**

In accordance with ACTL 3.4, upon completion of the loading operation, Terminal Operator shall determine the quantity of LNG redelivered to Client using a calibrated weighbridge. The quality of LNG redelivered to Client shall be deemed to be the quality of the LNG of the storage tank from which the LNG is loaded. An LNG Truck Quality and Quantity Document shall be provided to the Trucker. Terminal Operator shall use reasonable endeavours to ensure a constant quality of LNG in the relevant tank used for truck loading.

## **4 OPERATION AND MAINTENANCE OF THE LNG TERMINAL**

Terminal Operator shall during the term of this LTL operate, maintain and repair the LNG Terminal and keep the LNG Terminal in good working order and condition in order to fulfill its obligations under this LTL and under the Access Code for LNG Truck Loading (amongst others the sections 3.1 and 3.7) and to operate the LNG Terminal in accordance with the standards of a Reasonable and Prudent Operator and pursuant the applicable law.

## **5 SERVICE FEE**

- 5.1 The LNG Services performed by Terminal Operator to Client under this LTL are subject to the applicable Regulated Tariffs as approved by CREG.

Client shall pay to Terminal Operator the Monthly Capacity Charge and any other amount invoiced pursuant to GC 6.

### **5.2 Taxes**

The Monthly Capacity Charge or any other amounts invoiced pursuant to the GC 6.1 and due by Client to Terminal Operator are exclusive of any taxes, duties, levies or other charges imposed on Terminal Operator by any competent authority with respect to or affecting the LNG Truck Approval and/or LNG Truck Loading Services and/or LNG Truck Cool Down Services performed by Terminal Operator under this LTL (including but not limited to VAT, excises or levies imposed by public authorities, but excluding taxes on income, profit, taxes on share capital and any real estate taxes and other taxes on the LNG Terminal which are recovered or recoverable through the Regulated Tariffs). Terminal Operator may include in any invoice the amount due by Client associated with all taxes, duties, levies or other charges.

### **5.3 Calculation and indexation**

The Monthly Capacity Charge, invoiced by Terminal Operator to Client shall be calculated and indexed in accordance with the Regulated Tariffs as approved by CREG.

## **6 INVOICING AND PAYMENT**

### **6.1 Submission of invoice**

- 6.1.1 As from the Effective Date and insofar as Client has subscribed to at least one (1) LNG Service under this LTL, the Terminal Operator shall on the tenth (10th) Day of each Month (or the next Business Day if the tenth (10th) Day is not a Business Day) render an invoice to Client, showing in accordance with ACTL 2.1:

- (i) the LNG Truck Approval Service Charge for the provision of LNG Truck Approval Services; and/or
- (ii) the LNG Truck Loading Service Right Charge of LNG Truck Loading Services; and/or
- (iii) the LNG Truck Cool Down Services Charge for the provision of LNG Truck Cool Down Services. .

All invoices shall include a detailed calculation of the Monthly Capacity Charge(s), mentioning amongst others the performed LNG Services, the pricing formula 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 currency and the interest rates if applicable. Together with the invoice, the utilization rate of the LNG Services and a detailed summary table

per performed LNG Service shall be communicated, particularly including the gas allocation and measurement results.

- 6.1.2 It is understood that the LNG Truck Cool Down Services Charge, as applicable, are payable by the Client as from the moment that Fluxys LNG has received the request for LNG Truck Loading from the Client and such request has not been cancelled by the Client at the latest twenty-four (24) hours before the time of the requested LNG Truck Cool Down Services.
- 6.1.3 For the avoidance of doubt, unless relieved by another provision of this LTL and in accordance with the provisions of the ACTL, the Monthly Capacity Charge is payable irrespective of whether Client actually uses the LNG Service it has subscribed via the Service Confirmation Form.
- 6.1.4 Invoices are rendered electronically, or by letter or by telefax during normal office hours. The receipt of the invoice is deemed to have occurred the fifth (5th) Business Day following the date of the invoice.
- 6.1.5 At the end of this LTL and each time the Client requests it, the Terminal Operator delivers a statement of account.

## **6.2 Payment terms**

- 6.2.1 Client shall pay the invoice referred to in GC 6.1 in Euro by the Due Date being thirty (30) Days after receipt of such invoice. If the Due Date is not a Business Day, the first following Business Day shall apply.
- 6.2.2 Without prejudice to GC 6.2.1, payment shall be deemed to have been made when the invoiced amount shall have been credited to the Terminal Operator's bank account as 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.

## **6.3 Disputed payments**

- 6.3.1 If there is a calculation error(s), Client notifies such error to the Terminal 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 Terminal 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 GC 25.
- 6.3.2 If Client disputes part or all sums of the invoice(s) for reasons other than a calculation error(s), Client notifies such contestation to the Terminal Operator at the latest on the Due Date. In such case the Client shall pay the undisputed part(s) of the invoice, including VAT, at the latest on the Due Date, while the disputed part(s) of the invoice, including VAT will be paid within two (2) Business Days after notification of such contestation to the Terminal Operator into an Escrow Account of the Terminal Operator. The Terminal 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 GC 25.

- 6.3.3 Parties shall provide each other on time the data necessary for establishing and paying invoices.
- 6.3.4 If the invoice has not been paid on the Due Date or if the Client has made an undue payment in accordance with GC 8.3, default interest shall be due respectively by the Client for each Day payment is overdue or by the Terminal 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.
- 6.3.5 Any invoice not disputed within twelve (12) Months after the Due Date for payment shall be considered as final between the Parties.

## **7 CREDIT COVER**

- 7.1 The Client which has subscribed LNG Services for at least one hundred thousand Euro (100,000.00 €) per Contract Year has to provide a Financial Bank Guarantee in order to secure its due performance of this LTL in accordance with this GC 7 unless if, at the latest five (5) Business Days before the Service Start Date:
- the Client has an acceptable credit rating – which corresponds to a rating for the Client'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
  - the Client can 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 Rating Services or Fitch Rating, or not lower than Baa1 by Moody's Investor Services

provided however that there are no invoiced amounts overdue, at the latest five (5) Business Days before the Services Start Date.

The Terminal Operator shall, before the signature of the relevant contract, request the Client to demonstrate that it is complying with the Credit Cover provisions as well as to comply with the "Know Your Customer" requirements established by the Terminal Operator in consultation with the CREG. Once the Agreement has duly entered into force, the Terminal Operator may assess at any time the compliance of the Client with the "Know Your Customer" requirements and may request the Client to demonstrate its compliance with the Credit Cover provisions and "Know Your Customer" requirements.

The Client must proactively demonstrate on an annual basis, at the latest each 1st of January, that the Client or its Parent Company still complies with the Credit Cover provisions and "Know Your Customer" requirements

In case the Client fails to demonstrate compliance, the Terminal Operator has the right to suspend the LNG Services until it receives confirmation that the requirements have been complied with. Such suspension shall not constitute a failure by the Terminal Operator to provide LNG Services to Client under this LTL.

- 7.2 In case a Financial Bank Guarantee is required according to GC 7.1, the Client has to provide at the latest five (5) Business Days before the Services Start Date an unconditional and irrevocable Financial Bank Guarantee issued by a bank approved by the Financial Services & Market Authority ("FSMA" or by an equivalent body in one of the Members States of the European Union) and which has a credit rating corresponding to a rating of not less than A- by Standard & Poor's Rating Services or Fitch Ratings or not less than A3 by Moody's Investor Services, for an amount at least equal to the anticipated amount of Client's Monthly Capacity Charge for the following two (2) Months. The Monthly Capacity Charge for the following Month will be estimated as one (1) divided by the Service Term (expressed in Months with a maximum of 12 Months) multiplied by the LNG Truck Loading Service Rights during the relevant Contract Year multiplied by the applicable Regulated Tariff.

This amount shall however be rounded upwards to the first thousand Euro (1,000 €).

- 7.3 The Client must demonstrate annually and at the latest on the anniversary date of the LNG Services subscribed, that the financial institution, or the equivalent body that meets the requirements stipulated in GC 7.2, which has issued the Financial Bank Guarantee, has extended the Financial Bank Guarantee's term and has amended the amount thereof to correspond to the amount as specified in GC 7.2.
- 7.4 If the Client no longer meets the requirements stipulated in GC 7.1 and 7.2, it must, at the risk of breach of contract, immediately notify the Terminal Operator hereof by registered mail. If during the Contract Term the Client must provide a Financial Bank Guarantee in accordance with the Article 7.1, the Terminal Operator shall notify the Client hereof by registered mail.

The Client has twenty (20) Business Days in order to demonstrate to the Terminal Operator that it has obtained a new Financial Bank Guarantee meeting the requirements of GC 7.2. If upon expiry of the twenty (20) Business Days period, the Client has not obtained a new Financial Bank Guarantee, the Services will be suspended automatically and as of right and GC 14.2.2 shall apply.

- 7.5 If the Invoices are not paid after their Due Date and within fourteen (14) calendar days from the receipt by the Client of a formal notice hereto sent by the Terminal Operator by registered mail, the Terminal Operator may call upon the Financial Bank Guarantee. In the event that the Terminal Operator calls upon the Financial Bank Guarantee, the Client must, within the following twenty (20) Business Days, (i) demonstrate that the financial institution which has delivered the Financial Bank Guarantee, has increased its amount to the level determined in GC 7.2 or (ii) submit a new Financial Bank Guarantee that complies with the conditions

stipulated in GC 7.2. In case of default, the Services will be suspended automatically and as of right and GC 14.2.2 shall apply.

- 7.6 If the Client – which has subscribed LNG Services for less than one hundred thousand Euro (100,000.00 €) per Contract Year – has made payment(s) with a delay of more than (i) twenty (20) Business Days once in the past twelve (12) Months, or (ii) ten (10) Business Days twice in the past twelve (12) Months, the Terminal Operator shall send to the Client a final demand to pay such invoice(s) within fourteen calendar days. In case the Client fails to make the payment within this 14 calendar day term, the Services shall be suspended automatically and as of right, and GC 14.2.2 of this Attachment shall apply.

## **8 WARRANTIES**

### **8.1 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 LTL and any other documentation relating to this LTL to which it is a Party, (ii) to deliver this LTL and any other documentation relating to this LTL that it is required by this LTL to deliver, and (iii) to perform its obligations under this LTL 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 LTL 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 (regardless of whether enforcement is sought in a proceeding in equity or at law).

### **8.2 Client's warranties**

Client hereby warrants to Terminal Operator that:

- (a) it has title and/or all rights to the LNG at the Redelivery Point for Truck Loading for the provision of LNG Redelivery Services at the LNG Terminal by it and that such LNG is free of all claims or encumbrances;
- (b) it holds any and all licenses, permits and authorisations required under applicable law to load the Client's Trailer at the LNG truck loading station and

- that it shall use the endeavours of a Reasonable and Prudent Operator to maintain such licenses, permits and authorisations during the Service Term;
- (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 in full and timely all amounts due in this respect to the tax authorities; and it will keep Terminal Operator safe from any claim from the tax authorities in respect to customs duties;
  - (d) Client shall at all times be responsible for and respect all applicable Belgian and international safety and transport regulations.

### **8.3 Terminal operator warranties**

Terminal Operator hereby warrants to Client that

- (a) it holds any and all licenses, permits, authorisations and rights required under applicable law to operate the LNG Terminal and that it shall take all necessary steps to keep the same during the Service Term and that it has all the rights to possess and operate LNG Terminal as of the Effective Date and that it shall keep such rights during the Service Term;
- (b) it holds any and all licenses, permits, authorisations and rights required under applicable law to provide LNG Truck Approval Services and/or LNG Truck Loading Services and/or LNG Truck Cool Down Services and that it shall use its reasonable endeavours to maintain such licenses, permits and authorisations during the Service Term.

## **9 LIABILITY AND INSURANCE**

### **9.1 General**

- 9.1.1 Subject to the provisions of this GC 9, risks related to LNG shall pass simultaneously to the Client when the LNG passes the Redelivery Point for Truck Loading.
- 9.1.2 Except in case of gross negligence or willful misconduct, in case of contractual liability or extra-contractual liability, or in case of a concurrence between a contractual and extra-contractual liability, GC 9 shall apply to all circumstances under which a Party and/or its Affiliated Companies may be held liable for damages arising out the present LTL.
- 9.1.3 Without prejudice to GC 9.3, 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 9.1.4 and 9.1.5 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.
- 9.1.4 Without prejudice to the tariff supplements possibly due, a Client's maximum liability for the damages suffered by the Terminal Operator shall be limited to five millions Euro (5.000.000,00 €).



- 9.1.5 Without prejudice to the tariff supplements possibly due, a Terminal Operator's maximum liability for the damages suffered by the Client shall be limited to two hundred thousand Euro (200.000,00 €).
- 9.1.6 Terminal Operator shall be liable towards Client, up to the value of the LNG as determined by application of the Zig Day-Ahead price on the Day of the loss, for any and all loss to Client's LNG in the LNG Terminal, except to the extent caused by Client.
- 9.1.7 Third party claims: 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, arising out the LTL and/or Service Confirmation Forms.
- 9.1.8 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 or willful misconduct, the Parties mutually waive all claims they may have against each other for such damages caused to their member of personnel, sub-contractors, personnel or agents of such sub-contractors, proxy holder or visitors.
- 9.1.9 Subject to the provisions of this LTL, each Party is liable for the acts, defaults and negligence of any of its sub-contractors, and the personnel or agents of such sub-contractors as fully as if they were acts, defaults or neglects of that Party.

## **9.2 Insurance and waiver**

- 9.2.1 The Parties shall subscribe the insurance policies required in order to ensure the due performance of this LTL. The Parties shall subscribe in particular but not limited to the insurance policies listed hereafter and shall submit evidence of the existence of such insurance policies to the other Party upon request:
- (i) A worker's compensation and employers' liability insurance policy in conformity with the Belgian law against accidents at work and on the way to work for its personnel. This policy shall contain a clause stipulating that the insurer waives its claim rights against Terminal Operator. If the Client is established abroad, the Client shall prove that his personnel is covered in a similar way by the applicable system of social security.
  - (ii) A third party liability insurance for the minimum amount as set out in respectively GC 9.1.4 and 9.1.5. This amount can however not be considered as a limitation of the liability of the Parties towards third parties.
  - (iii) An automobile liability insurance policy covering the Trailer according to the applicable legal obligations.

- 9.2.2 Each Party shall attempt that all and any insurances, effected by or on behalf of a Party, shall provide that the underwriters waive their rights of subrogation against the other Party with the effect that the insurers of a Party may not make a claim against the other Party which the insured Party would have been entitled to make.

## **10 FORCE MAJEURE**

- 10.1 The term "Force Majeure" shall mean any unforeseeable and insurmountable event or circumstances beyond the control of any Party acting in accordance with the standards of a Reasonable and Prudent Operator which temporarily or definitively makes impossible for such Party to fulfill any obligation under this LTL towards the other Party.

Following events could constitute Force Majeure, without limited to any of the following circumstances or events: forces of nature, strikes, acts of government or any governmental authority or representative thereof (whether or not legally valid), wars, insurrections, riots, landslides, fires, floods, earthquakes, explosions, breakage, accidents, or non-obtention or non-renewal in due time of any authorizations or license, or refusal by the authorities to maintain any authorisations or liecense in case such non-obtention, non-renewal or refusal is not attributable to any delay caused by the Party requesting such authorization or other fault on the part of the requesting Party.

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

- 10.2 Without prejudice to GC 10.5 and 10.6, if by reason of Force Majeure either Party is rendered unable wholly or in part to carry out its obligations under this LTL, 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.
- 10.3 A Party claiming relief on account of Force Majeure shall:
- (i) forthwith notify the other Party of the event or circumstances 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 shall provide regular updates on such event of Force Majeure; and
  - (ii) forthwith take all reasonable practicable steps to minimize the consequences of the Force Majeure and to limit the damage caused thereby.
- 10.4 If within one month as from the notification referred to in GC 10.32 the Parties do not agree to accept the event as Force majeure, either Party can call upon GC 25.

- 10.5 If the Client is affected by Force Majeure and the event is recognized as Force Majeure either by the other Party either in application of GC 25, the total Monthly Capacity Charges shall continue to be due by the Client.
- 10.6 Without prejudice to GC 9, the Terminal Operator shall have the right, when invoking Force Majeure, to proceed to an interruption and such interruption shall be applied to Client and the other Clients and as the case may be the other Terminal Users pro rata the subscribed Capacities in accordance with the provisions of the Code of Conduct.

If the Terminal Operator is affected by Force Majeure and the event is recognized as Force Majeure either by the other Party either in application of GC 25, the total Monthly Capacity Charges shall continue to be due by the Client during the first three (3) Months after the Force Majeure has been notified in accordance with GC 10.3, however with a reduction of five (5) percent. For the avoidance of doubt, the Client is in no case released of its other obligations.

If after expiry of the three (3) Month period, it is established that the Force Majeure is irreparable and this has been accepted either by the Parties, either in application of GC 25, Parties shall be immediately released without any indemnity of all obligations arising out the Service Confirmation Form(s) affected by Force Majeure – for the part of the concerned capacity only – except for the obligations which already existed prior to the notification of Force Majeure in accordance with GC 10.3.

If after expiry of the three (3) Month period, the Force Majeure is reparable, the Monthly Capacity Charge(s) – for the part of the concerned capacity only – shall be suspended until the end of the Force Majeure.

## **11 INCIDENT MANAGEMENT AND EMERGENCY**

In accordance with the Access Code for LNG Truck Loading, the Terminal Operator may take all measures it deems necessary to guarantee and/or restore the safety and system integrity of the LNG Installation in case of an incident or emergency.

In case of incident or emergency, Terminal Operator shall be entitled in particular to suspend its obligations under this LTL. In such case Terminal Operator shall inform the Client of the event or circumstances constituting an Emergency.

Whenever deemed required, the Terminal Operator might activate the incident & emergency procedure as defined in the Access Code for LNG Truck Loading. In the latter case, the incident or the emergency qualifies as an Emergency and the Terminal Operator shall notify the Clients as soon as reasonably possible.

## **12 CONGESTION**

12.1 The procedures referred to in ACTL 3.6 shall apply in case of a situation of congestion.

12.2 Pursuant to the provisions of the Code of Conduct, the Terminal Operator shall undertake the following pro-active measures for congestion management through:

- (i) offering the maximum available amount of LNG Services to Clients on the Primary Market, taking into account system integrity and operation and within the actual exploitation boundaries;
- (ii) offering and developing LNG Services that are aligned with the market needs;
- (iii) adopting non-discriminatory and transparent allocation rules as set forth ACTL 2.2;
- (iv) encouraging the “use or sell” principle for LNG Services by facilitating the transfer of LNG Services via the Secondary Market;

12.3 Pursuant to the provisions of the Code of Conduct, the Client shall undertake all the following pro-active measures for congestion management:

- (i) do not subscribe more LNG Services than reasonably required to fulfill his contractual provisions made; and,
- (ii) offer on the Secondary Market its subscribed LNG Services that it temporarily or permanently does not use; and,
- (iii) refrain from using the allocated subscribed LNG Services to hamper, limit or disturb the functioning of the market.

## **13 TERM AND TERMINATION OF THIS LTL**

### **13.1 Term and duration of this LTL**

This LTL shall enter into force on the Effective Date of this LTL and shall be effective for an undetermined term.

### **13.2 Termination of this LTL by Client**

The Client may terminate this LTL at any time by giving prior written notice to the Terminal Operator to the extent that all LNG Services subscribed under this LTL have been terminated in accordance with GC 14.

## **14 TERM, TERMINATION AND SUSPENSION OF THE LNG SERVICES**

### **14.1 Term of LNG Services**

Each LNG Service subscribed by Client under this LTL shall have a Service Term as set out in the relevant Service Confirmation Form. The Service shall automatically end at the end date set out in the Service Confirmation Form.

### **14.2 Suspension of LNG Services**

14.2.1 The LNG Services may be suspended as the case may be in accordance with GC 10 and 11.

14.2.2 In case of default of the Client to fulfill its obligations under GC 6 and 7, the LNG Services will be suspended after written notice by the Terminal Operator and as of right and the Terminal Operator shall be entitled to re-allocate relevant LNG Services to another Client according to the service allocation rules specified in ACTL 2.2.

To the extent that the relevant LNG Services have not been reallocated, the Client remains liable for the amounts to be invoiced for such suspended LNG Services. The LNG Services which have not been reallocated shall be reactivated within two (2) Business Days as from the payment of all of the amounts due to the Terminal Operator in accordance with GC 6 and 7.

14.2.3 In case the Client behaves or makes actions or omissions leading to a threat to the security of people and/or of the Terminal's installations (including but not limited to the infringement of the provisions of ACTL 3.2.1.1), the Terminal Operator is entitled to suspend the LNG Services until the Client has remedied the situation or until the LNG Services have been duly terminated by a court intervention. In such case, the Terminal Operator shall be entitled to re-allocate relevant LNG Services to another Client according to the service allocation rules specified in ACTL 2.2. To the extent that the relevant LNG Services have not been reallocated, the Client remains liable for the amounts to be invoiced for such suspended LNG Services.

To the extent that the relevant LNG Services have not been reallocated, the LNG Services shall be reactivated within two (2) Business Days as from the moment there is no threat to the security.

### **14.3 Termination of LNG Services by the Client**

Client shall be entitled to terminate at any time a LNG Service under the following conditions:

- i. For LNG Services subscribed for a remaining duration of two (2) years or less than two (2) years: the Client shall be entitled to terminate at any time a LNG Service subject to prior written notice and payment to the Terminal Operator of a termination indemnity corresponding to 100% (one hundred percent) of the amounts still to be invoiced for such LNG Service until the

end date set out in the Service Confirmation Form (calculated on the basis of the Regulated Tariffs);

To the extent that there are no LNG Services available on the Primary Market, if Terminal Operator can partly or wholly sell the validly terminated LNG Services on the Primary Market to another Client, only for the sold part and the period thereof the corresponding amount shall be reimbursed by the Terminal Operator to the Client having terminated such LNG Service.

- ii. For LNG Services subscribed for a remaining duration exceeding two (2) years: the Client shall be entitled to terminate at any time a LNG Service subject to prior written notice and payment to the Terminal Operator of a termination indemnity corresponding to 95% (ninety five percent) of the amounts still to be invoiced for such LNG Service until the end date set out in the Service Confirmation Form (calculated on the basis of the Regulated Tariffs);

To the extent that there are no LNG Services available on the Primary Market, if Terminal Operator can partly or wholly sell the validly terminated LNG Services on the Primary Market to another Client, only for the sold part and the period thereof the corresponding amount shall be reimbursed by the Terminal Operator to the Client having terminated such LNG Service.

## **15 CONFIDENTIALITY**

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

This LTL 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 LTL, such confidential information may be disclosed to employees, agents, contractors, consultants, customers, and other Terminal Users.

In such case, such disclosing Party shall cause its employees, agents, contractors, consultants, customers, and other Terminal 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 LTL, the borrowing of funds, obtaining of insurance, sale of

securities and in connection with required reports and applications to relevant governmental agencies.

However, the Client or the Terminal 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 LTL and subject to the first paragraph of this GC. In such case, such releasing Party shall ensure that its Affiliated Company shall execute written undertakings as to confidentiality.

This confidentiality obligation shall not apply to information:

- 1) 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 authority 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.

This GC 15 of this LTL shall survive the expiry or termination of this LTL for five (5) years.

## **16 TRADING AND ASSIGNMENT OF LNG TRUCK LOADING SERVICES**

Client may assign or transfer any or all of the LNG Truck Loading Services (for both non-Scheduled Truck Loading Services and Scheduled Truck Loading Services) it has subscribed for under this LTL in accordance with the ACTL.

## **17 SEVERABILITY**

In the event of invalidity or unenforceability of any provision or part of a provision of this LTL, that provision or part of a provision shall be deemed to be deleted from this LTL and the remaining provisions shall continue in full force and effect. If a provision of this LTL is found to be void or unenforceable, such provision shall be removed from this LTL and shall be substituted by a valid and enforceable provision after public consultation and after formal approval by the CREG pursuant to and in accordance with the applicable regulatory framework, including without limitation the Gas Act and the Code of Conduct.

If any of the provisions of this LTL 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 Agreement which shall otherwise remain unaltered.

## **18 WAIVER**

The failure of a Party 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 LTL does not constitute and shall not be construed as a waiver of such term or right and shall in no case affect that Party's right to enforce or exercise it later except if expressly otherwise provided.

## **19 SUCCESSORS**

This LTL binds and inures to the benefit of the Parties and their respective successors and permitted assigns.

## **20 INFORMATION**

The Parties shall at all times provide in a full and accurate manner 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 LTL and in accordance with the Code of Conduct and the Access Code for LNG Truck Loading.

Failure to comply with this GC 20 shall constitute a material breach of Terminal Operator/Client's obligations under this LTL. Failure to comply with the



information obligations by a Party shall be sanctioned, as the case may be, under criminal law in accordance with the Code of Conduct.

## **21 ENTIRE AGREEMENT**

This LTL constitutes the entire agreement and understanding between the Parties with respect to its subject matter and supersedes and extinguishes any and all previous negotiations, agreements, understandings, undertakings, representations documents, minutes of meetings, letters and notices (whether written or oral) previously given or made with respect to the subject matter of this LTL, other than those included in this LTL provided that nothing in this GC 21 shall limit or exclude liability for fraud.

## **22 NO INTERMEDIARIES**

Parties represent that they have no obligation to any third party by way of commissions, finder's fees or similar fees with respect to entering into this LTL. Each Party hereto agrees to indemnify and hold harmless the other Party hereto for and against all claims and losses suffered by such other Party resulting from the incorrectness of this foregoing representations made by the indemnifying Party.

## **23 SURVIVAL OR RIGHTS, DUTIES AND OBLIGATIONS**

Termination of this LTL 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.

## **24 CHANGE OF CIRCUMSTANCES**

Client acknowledges that the regulatory framework of LNG in Belgium and in the European Union (including the applicable legal framework relating to LNG regulations and the Access Code for LNG Truck Loading) are evolving. If during the term of this LTL, there is a change of such regulatory framework, due to a decision of the CREG or any other regulatory authority, or due to any change in the applicable laws and regulations, such change shall automatically and ipso jure apply to this LTL as of the moment such change has become effective.

If certain provisions of this LTL require to be amended following a change in the applicable laws and regulations, Terminal Operator shall be entitled to amend or modify this LTL after public consultation of the market and after approval by the CREG in accordance with the applicable laws and regulations, in order to make it comply with applicable laws and regulations. Such change shall enter into force for Client on the date set by the CREG.

## **25     GOVERNING LAW AND JURISDICTION**

- 25.1     This LTL shall be governed by, interpreted and construed in accordance with the laws of the Kingdom of Belgium.
- 25.2     All claims, disputes and other matters arising out of or in connection with the present Agreement which the Parties are unable to resolve by mutual agreement, shall exclusively and finally be settled by the courts of Brussels.
- 25.3     All claims, disputes and other matters arising out of or in connection with the present Agreement can be threaten in English, Dutch or French.