

# AGREEMENT FOR THE SUBLETTING OF NATURAL GAS TRANSMISSION CAPACITY

between

ENI S.p.A.  
an Italian Company whose registered office  
is in Roma - Piazzale Enrico Mattei, 1  
(hereinafter referred to as "ENI")

and

[Company name]  
[Address]  
(hereinafter referred to as "SHIPPER")

[n. 20180xx]

## CONTENTS

Whereas

Art. 1 Definitions

Art. 2 Object of the Contract

Art. 3 Subletting Obligations and Overrun

Art. 4 Quantities

Art. 5 Determination of the Quantities

Art. 6 Quality and pressure of Gas

Art. 7 Term of the Contract

Art. 8 Interruption and/or Reduction of Subletting Service

Art. 9 Subletting Fee

Art. 10 Invoicing and Payment

Art. 11 Measurement

Art. 12 Programs

Art. 13 Taxes and Duties

Art. 14 Liability

Art. 15 Force Majeure

Art. 16 Bank Guarantee

Art. 17 Governing law and litigation

Art. 18 Amendments

Art. 19 Notices

Art. 20 Confidentiality

Art. 21 Administrative Responsibility

Art. 22 Assignment

Annex A: Quality and pressure specification at the Intake Point

Annex B: Quality and pressure specification at the Offtake Point

Annex C: Contact Information

Annex D: Monthly Quantity Report

Annex E: Daily Transportation Program

Annex F: Form of the Bank Guarantee

Annex G: Relevant Data

**Whereas:**

1. The SHIPPER has Natural Gas available at the Intake Point and intends to have this Gas transported through the TRANSITGAS or the GRTGAZ/TRANSITGAS Pipeline System as the case may be;
2. ENI has committed transmission capacities on the TRANSITGAS and the GRTGAZ/TRANSITGAS Pipeline Systems;
3. The SHIPPER has been assigned part of said ENI's committed transmission capacities in the Auction Procedure and is willing to have its Gas transported through it from the Intake Point to the Offtake Point;
4. The Parties intend to set forth the basic terms and conditions for the use of the transmission capacity sublet by ENI to the SHIPPER in order to have SHIPPER's Natural Gas quantities transmitted from the Intake Point to the Offtake Point.

**Now, therefore, it is agreed by the Parties hereto as follows:**

**Article 1**  
**Definitions**

The following words and terms, when used in this Contract, shall have the meaning as follows:

**Auction Procedure** shall mean the Auction Procedure North/West Europe Auction 1Q 2019 (for Subletting Products) published on ENI web site on 11/10/2018.

**Bar** shall mean a pressure of 100.000 Pa.

**Bid Bond** shall mean the security provided by the SHIPPER, as set forth in Article 5 of the Auction Procedure.

**Business Day** shall mean any day, but not a Saturday, Sunday or a holiday in Italy.

**Contract** shall mean this agreement, including the Preamble and Annexes A, B, C, D, E, F and G which constitute an integral part of it.

**Day** shall mean the period of twenty-four consecutive hours beginning at 06:00 a.m. on each calendar day and ending at 06:00 a.m. on the following calendar day.

**Downstream Shipper code** shall mean the code to which Natural Gas is re-delivered at the Offtake Point and, in case of service on the GRTGAZ/TRANSITGAS Pipeline Systems at the Oltingue Point.

**Fee** shall mean the fee as referred to in Article 9.

**FluxSwiss** shall mean **FluxSwiss Sagl**, the company that performs activities of Natural Gas transportation on the TRANSITGAS Pipeline System.

**GRTGAZ Pipeline System** shall mean the gas transmission system, including compressor stations and all ancillary facilities along the line, running from Blarégny, crossing France and ending at a point on the French-Swiss border in the area of Oltingue.

**Gross Calorific Value (GCV)** shall mean the quantity of heat expressed in MJ produced by the complete combustion of one Normal Cubic Meter (Nm<sup>3</sup>) of Natural Gas at a temperature of twenty-five degree Celsius and at an absolute pressure of 1,01325 bar with excess air at the same temperature and pressure as the natural Gas when the products of combustion are cooled to the initial temperature of the Gas and when the water formed by the combustion is condensed to the liquid state to the initial temperature of Gas.

**Intake Point** *(to be defined in accordance with the result of the Auction Procedure).*

**Joule (J)** shall mean the quantity of heat as defined in ISO 1000 S.I. units and recommendations for the use of their multiples and of certain other correlated units.

**kWh** shall mean a quantity of energy equal to three decimal six million ( $3,6 \times 10^6$ ) Joules.

**Megajoule (MJ)** shall mean one million joules.

**Metering Stations** *(to be defined in accordance with the result of the Auction Procedure)*

**MWh** shall mean a quantity of energy equal to thousand (1.000) kWh.

**Month** shall mean the period beginning at 06:00 a.m. on the first day of any calendar month and ending at 06:00 a.m. on the first day of the following calendar month.

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

**Normal Cubic Meter (Nm<sup>3</sup>)** shall mean the quantity of natural Gas which, when absolutely dry, at a temperature of 0° C and at an absolute pressure of 1,01325 bar, occupies the volume of one cubic meter.

**Offtake Point** *(to be defined in accordance with the result of the Auction Procedure)*

**Oltingue Point** shall mean the connection between the GRTGAZ Pipeline System and the TRANSITGAS Pipeline System.

**Operator** shall mean FluxSwiss

**Party or Parties** shall mean ENI or the SHIPPER, individually or collectively.

**Pipeline** *(to be defined in accordance with the result of the Auction Procedure)*

**Primary Bank** shall mean a bank with rating Standard and Poor's Corporation not under "BBB-" or Moody's Investors Service Inc. not under "Baa3" or Fitch Ratings, Inc./Ltd. not under "BBB-".

**Reasonable and Prudent Operator** is used to describe the standard of care to be exercised by a Party in performing its obligations hereunder, the degree of diligence, prudence and foresight reasonably and ordinarily exercised by experienced operators engaged in the same type of business under the same or similar circumstances and conditions having due consideration to the interests of the other Party.

**Snam Rete Gas** shall mean the company that performs activities of Natural Gas transportation downstream the Offtake Point.

**Start Up Date** shall mean the Start-up Date of the Subletting Service, as defined in Article 7.

**Sublet Hourly Flow Rate** shall mean the maximum hourly flow rate (expressed in MWh/h) sublet for the transportation from the Intake Point to the Offtake Point as set forth in Article 4 and possibly reduced in case of interruption and/or reduction of ENI's transmission capacity as per Article 8.

**Subletting Service** shall mean the service object of this Contract, as defined in Article 2.

**TENP Pipeline System** shall mean the gas transmission system, including compressor stations and all ancillary facilities along the line, running from the Dutch-German border in the area of Bocholtz, crossing Germany and ending at a point on the German-Swiss border in the area of Wallbach.

**TRANSITGAS Pipeline System** shall mean the gas transmission system, including compressor stations and all ancillary facilities along the line, running from *(to be defined in accordance with the result of the Auction Procedure)* crossing Switzerland and ending at a point on the Swiss-Italian border in the area of Gries Pass.

**Upstream Shipper codes** shall mean the codes by means of which SHIPPER delivers Natural Gas at the Intake Point.

**Wallbach Point** shall mean the connection between the TENP Pipeline System and the TRANSITGAS Pipeline System.

**Week** shall mean the period of seven (7) Days beginning at 06:00 a.m. on a Monday and ending at 06:00 a.m. on the following Monday.

**Year** shall mean the period of time beginning at 06:00 a.m. of the first day of October in any calendar year and ending at 06:00 a.m. of the first day of October of the next succeeding calendar year.

In this Contract references to time are references to the Central European Time (CET).

For all the other units of measure, the definitions contained in ISO 1000:1981 and in the International System shall be used.

For the avoidance of doubt, comma is used as separator of decimal places of the figures of this document.

## Article 2 Object of the contract

1. This Contract contains the provisions for the delivery of Natural Gas by the SHIPPER at the Intake Point and its redelivery to the SHIPPER at the Offtake Point using the Sublet Hourly Flow Rate as per Article 4 below ("Subletting Service"), under the terms and conditions set forth in this Contract.
2. The redelivery obligation, set forth herein, has not to be construed as an obligation to redeliver the same Gas delivered by the SHIPPER, but as an obligation to redeliver an equivalent (in terms of energy) quantity of Gas, as specified hereunder.

## Article 3 Subletting Obligations and Overrun

1. In accordance with and subject to the terms and conditions of this Contract, from the Start-Up Date and throughout the term of this Contract, ENI shall let the same amount of energy on a GCV basis, expressed in kWh contained in the quantities of Natural Gas that the SHIPPER will deliver and make available at the Intake Point be simultaneously redelivered to the SHIPPER at the Offtake Point using the Sublet Hourly Flow Rate as per Article 4 below, according to the procedures described in Article 5 below.
2. In no cases ENI will be obliged to let be redelivered to the SHIPPER at the Offtake Point a total quantity of energy higher than the quantity simultaneously delivered by the SHIPPER at the Intake Point, according to the procedures referred to in Article 3.1 above.
3. Starting from the Start Up Date and throughout the term of this Contract, the Gas delivered by the SHIPPER at the Intake Point shall be offtaken provided said Gas has the quality and pressure specified in Article 6 below and further provided that the hourly flow rate shall not exceed the Sublet Hourly Flow Rate. In the event that the Sublet Hourly Flow Rate is exceeded, there shall be no obligation to take delivery of Gas. In case Gas exceeding the Sublet Hourly Flow Rate has been taken and redelivered the Overrun Extra Charge as defined in Article 3.6 applies.
4. The Gas will be redelivered to the SHIPPER at the Offtake Point and the SHIPPER shall take delivery of said Gas, in accordance with Article 5 hereunder.
5. The SHIPPER shall in any event offtake the quantities of Gas redelivered to the SHIPPER at the Offtake Point.
6. Without prejudice to Articles 3 above, in case of overrun of the Sublet Hourly Flow Rate SHIPPER shall be charged the following amounts (the "Overrun Extra Charge"):
  - i. For each kWh/h of the maximum hourly flow rate of each Day exceeding the Sublet Hourly Flow Rate multiplied by 1,10 (one point ten), 2 (two) times the monthly Fee divided by the number of Days of the relevant Month;
  - ii. For each kWh/h of the average hourly flow rate during any Day exceeding the Sublet Hourly Flow Rate, 3 (three) times the monthly Fee divided by the number of Days of the relevant Month.
7. The above mentioned Overrun Extra Charge shall be invoiced by ENI on a monthly basis.

8. In case the SHIPPER has several subletting agreements in place for the same Intake Point and/or Offtake Point, the extra charge for overrun as defined in Article 3.6 shall be applied only in case Gas exceeding the sum of the sublet hourly flow rates of said subletting agreements has been taken and redelivered and shall be calculated pro quota to all subletting agreements (including this Contract) in place between ENI and the SHIPPER, based upon the respective relevant sublet hourly flow rate.
9. In any event the SHIPPER shall indemnify and hold harmless ENI from and against any losses, damages and costs charged to ENI by the relevant transmission system operator or claimed by other shippers on the Pipeline due to an overrun by the SHIPPER of the Sublet Hourly Flow Rate.

#### Article 4 Quantities

Starting from the Start Up Date and throughout the term of this Contract the Sublet Hourly Flow Rate of the SHIPPER will be equal to:

$Q = [ \dots ]$  MWh/h *(to be inserted in accordance with the result of the Auction Procedure).*

#### Article 5 Determination of the Quantities

The Daily and Monthly quantities of Natural Gas expressed in kWh, delivered by the SHIPPER at the Intake Point, and redelivered to the SHIPPER at the Offtake Point, during each given Month shall be stated in the "Monthly Quantity Report", provided by ENI or by the Operator on behalf of ENI (as the case may be) on or before the end of the following Month. A form of the Monthly Quantity Report provided by ENI is attached hereto as Annex D. The above mentioned "Monthly Quantity Report" shall be considered as final unless revised allocation at the Intake Point or at the Offtake Point, as the case may be, are provided by the relevant Operator afterwards; in case of revised allocation, the updated "Monthly Quantity Reported" shall be provided as soon as possible.

#### Article 6 Quality and pressure of Gas

1. The quality and pressure of the Gas delivered by the SHIPPER at the Intake Point shall be in accordance with the specifications set out in Annex A hereof. The quality and pressure of the Gas redelivered to the SHIPPER at the Offtake Point shall be in accordance with the specifications set out in Annex B hereof.
2. Should the SHIPPER deliver at the Intake Point Gas with specifications of quality or pressure not complying, for any reason, with the specifications set forth in Annex A hereof, ("Off-specification Gas"):
  - a. the relevant transmission system operator shall have the right to refuse said Off-specification Gas; in such case, said Gas shall be considered as having not been delivered by the SHIPPER;
  - b. the SHIPPER shall have an obligation to notify ENI any information of such failure to comply with the Gas specifications;
  - c. the subletting Fee set forth in Article 9 below shall be anyhow due and payable by the SHIPPER.
  - d. the SHIPPER shall indemnify and hold harmless ENI from any cost and expenses charged to ENI by the relevant transmission system operator as a direct consequence of such Off-specification Gas;
  - e. in case the relevant transmission system operator accepts the Off-specification Gas, the Gas redelivered at the Offtake Point could have quality and pressure specifications not complying with the specifications in Annex B hereof.
3. Should Gas be redelivered at the Offtake Point with quality, pressure or specifications not complying, for any reason, with the specifications in Annex B hereof, provided that the Gas delivered at the Intake Point complied with the specifications in Annex A (Off-specification Gas):
  - a. Snam Rete Gas shall have the right to refuse the Off-specification Gas; in said event such gas shall be deemed to have not been redelivered;

- b. if Snam Rete Gas accepts such Off-specification Gas, the subletting Fee set forth in Article 9 below shall be due and payable;
- c. all properly documented additional costs and expenses charged to the SHIPPER by Snam Rete Gas for the transportation of the Off-specification Gas will be reimbursed by ENI to the SHIPPER.

Article 7  
**Term of the Contract**

The Start Up Date of the Subletting Service shall be 01/01/2019 at 06:00 a.m.; the end date of the Subletting Service shall be 01/04/2019 at 06:00 a.m.

Article 8  
**Interruption and/or Reduction of Subletting Service**

1. Should for any reason the relevant transmission operator temporarily reduce and/or interrupt ENI's transportation capacity on the Pipeline, then ENI has the right to reduce, up to the same percentage of ENI's total transportation capacity reduction, the Sublet Hourly Flow Rate available for the transportation of the quantity of gas delivered by the SHIPPER at the Intake Point.
2. ENI shall notify to the SHIPPER, on a non-binding basis, the foreseen program of reduction of the transportation capacity on the Pipeline due to maintenance and reinforcements activities on the Pipeline, in line with the information provided by the relevant transmission system operator.
3. ENI shall notify to the SHIPPER changes of the above program as soon as it receives the corresponding information from the relevant transmission system operator.

Article 9  
**Subletting Fee**

1. For the entire duration of this Contract, the SHIPPER shall pay to ENI, on a "ship or pay basis", a monthly Fee for the Subletting Service provided under this Contract and expressed in Euro, equal to:

$$F = (RP_0 + B) * Q \text{ (Euro/Month)}$$

Where:

- $RP_0$  = ..... Euro/MWh/h/Month (*Reserve Price for the Subletting Product of the relevant Section to be inserted as set forth in Article 3.5 of the Auction Procedure*)
  - $B$  = ..... Euro/MWh/h/Month (*Marginal Bid Price of the relevant Section to be inserted in accordance with the result of the Auction as set forth in Article 9 of the Auction Procedure*)
  - $Q$  = SHIPPER's Sublet Hourly Flow Rate (expressed in MWh/h) as set forth in Article 4.
2. The monthly subletting Fee "F" set out above includes the fuel Gas consumption as well as metering differences.
  3. Said monthly subletting Fee shall be due and payable by the SHIPPER independently from the actual use of the Sublet Hourly Flow Rate by the SHIPPER.
  4. In case of reductions and/or interruptions as per Article 8.1 above, the Fee shall be reduced in proportion to the reduction of the flow rate made available by ENI to the SHIPPER for the period of such reduction, with the exception of the reductions which do not exceed in aggregate an equivalent of 10 entire Days during the term of the Contract.

Article 10  
**Invoicing and Payment**

1. Within the first 10 (ten) calendar days of any Month ENI shall render to the SHIPPER an invoice relating to the Subletting Service of the preceding Month, indicating, *inter alia*:

- the Fee according to Article 9 above;
- the Sublet Hourly Flow Rate;
- the VAT, taxes, customs and charges according to Article 13 hereof.

Said invoice shall be sent by facsimile or by mail.

2. The invoice shall be addressed to:

[Company name]  
[Address]  
Fiscal Code: [.....]  
VAT: [.....]

and sent to:

[Company name]  
[Address]  
Fax number: [.....]  
Tel. number: [.....]  
E-mail: [.....]  
Att.: Mr. / Mrs.

3. SHIPPER shall pay the invoice as described in Article 10.1 within :
- the end of the month in which the invoice is sent, or
  - the twentieth calendar day after the day on which said invoice was sent, whichever is the latest (the "Due Date").
- If the Due Date falls on a non-Business Day, the SHIPPER shall make payment on the first following Business Day.
4. If any invoice contains an error, it will be corrected and balanced in a subsequent invoice.
5. In case of any disputes regarding an invoice, the SHIPPER shall pay without delay the whole amount except in case of a manifest error. If after settlement of the dispute it is agreed between the Parties or otherwise determined, according to Article 17 hereof, that the disputed amount has been unduly paid, the SHIPPER shall be reimbursed of the amount unduly paid plus interest at the rate set forth in Article 10.8 below.
6. Without prejudice to point 5 above, in case the SHIPPER fails to settle any due and payable invoice after more than thirty (30) calendar days following the date of the invoice, ENI shall have the right – notwithstanding any other remedies to which ENI may have resort – to suspend the subletting obligations provided under this Contract until the actual payment of all amounts due.
7. In case the SHIPPER fails to settle any due and payable invoice after more than sixty (60) calendar days following the date of the invoice, ENI shall have the right to terminate this Contract and shall be entitled to enforce the Bank Guarantee as set forth in Article 16, as liquidated damage.
8. In the case of delay of total or partial payment of an invoice as described in this Article, SHIPPER shall pay an interest on any due and unpaid sum for every day of delay in payment at the rate corresponding to the one provided for by the Italian legislative Decree no. 231/2002, as amended, for the period starting from the day following the Due Date until the date of actual payment of the invoice.

#### Article 11 Measurement

The determination of the quality, the measurement of quantities and the testing of the quality specifications of Natural Gas shall be carried out by the relevant Operator in accordance with the existing procedures at the Metering Stations of the Intake Point and Offtake Point.



Article 12  
**Programs**

1. ENI shall be entitled to procure that its obligations under this Contract concerning operation, nomination and dispatching are performed on its behalf by the Operator(s), as service provider, without prejudice to ENI's liability towards the SHIPPER.
2. All the information requested by the Operator will be provided by the SHIPPER in accordance with the terms and conditions issued by the Operator. For avoidance of doubt it is under SHIPPER's liability to perform its obligations towards the Operator. In this respect the SHIPPER is requested to take all necessary actions in order to be compliant with the rules set forth by the Operator in its terms and conditions.
3. The SHIPPER acknowledges and agrees that the Operator shall be entitled to add, modify its terms and conditions and/or ask the SHIPPER other operating information in order to manage all the operating activities connected to this Contract.

*[Following paragraphs to be added only in case of Section 3 (Exit Oltingue + Transitgas (Oltingue-Passo Gries))]*

4. The obligations of ENI concerning operation, nomination and dispatching shall be fulfilled by ENI as specified in this Article 12.
5. The programs, set forth under this Article 12, shall be transmitted by the SHIPPER to ENI via e-mail only, by mean of the template attached hereto as Annex E. The programs could also be transmitted via fax, only in case the e-mail system is out of order and provided that the SHIPPER has informed ENI by phone in due time.
6. For the Subletting Service under this Contract, the following main operating provisions shall apply:
  - 6.1. Matching
    - 6.1.1. The SHIPPER undertakes that:
      - a) the nomination notified by the SHIPPER to ENI at the Intake Point, shall at any time be consistent with the nomination notified by the SHIPPER to the operator of the upstream gas transportation system at the Intake Point;
      - b) the nomination notified by the SHIPPER to ENI at the Intake Point shall at any time be consistent with the nomination notified by the SHIPPER to the Operator.
      - c) At least eight (8) Business Days before the beginning of each relevant Month between the Start Up Date and the end date as set forth in Article 7, SHIPPER shall provide ENI with the Upstream Shipper codes and the Downstream Shipper code on TRANSITGAS Pipeline System to be used for nomination and matching purposes for each relevant Month of the Subletting Service. In case of delay of such communication by the SHIPPER – and notwithstanding any other remedies to which ENI may have resort – the commencement of the Subletting Service shall be delayed accordingly, while the end date shall remain as indicated in Article 7. It is understood that in case of delay of the above communication by the SHIPPER the payment obligation under this Contract shall apply in any case from the Start Up Date.
      - d) For the sake of clarity, during each relevant Month of the Subletting Service, the Upstream Shipper codes and the Downstream Shipper code shall remain the same as indicated in point c).
    - 6.1.2. In case one or both nominations as reported in sub-article 6.1.1.a) and 6.1.1.b) of this Article 12 do not match with the corresponding nomination notified by the SHIPPER to ENI, leading to a mismatch between the adjacent operators at the Intake Point and/or at the Oltingue Point ENI shall inform the SHIPPER about the mismatch as soon as ENI is informed thereof; the SHIPPER shall provide ENI as soon as possible with a correct nomination to match the position at the Intake Point and/or at the Oltingue Point. It is understood that ENI has the right to offtake at the Intake Point and redeliver at the Oltingue Point a quantity in line with the matching rules applied at the Intake Point and/or at the Oltingue Point.

- 6.1.3. It is understood that ENI shall not be considered responsible of any losses, damages and costs incurred by the SHIPPER in the attempt of fulfilling the nomination notified by ENI to the Operator due to what reported in sub-article 3.1.2 of this Article 12.
- 6.1.4. It is also understood that the SHIPPER shall indemnify ENI of any losses, damages and costs incurred in the attempt of fulfilling the nomination notified by ENI to the Operator due to what reported in sub-article 3.1.2 of this Article 12.
- 6.2. Nominations
- 6.2.1. The SHIPPER shall nominate the quantities of Natural Gas to be transported on the GRTGAZ/TRANSITGAS Pipeline System by transmitting to ENI or to the Operator the transportation programs according to the provisions set forth in this Article 12. The programs transmitted to ENI shall indicate the quantities (expressed in kWh) at the Intake Point; the programs transmitted to FluxSwiss shall indicate the quantities (expressed in kWh) at the Oltingue Point. The programs shall refer to the Gross Calorific Value of Natural Gas communicated by ENI.
- 6.2.2. Weekly Request Notice  
The SHIPPER shall transmit to ENI, not later than 1:00 p.m. of each Tuesday, the Weekly Request Notice valid for each Day of the Week starting from the following Monday. The Weekly Request Notice shall be sent to ENI in the form of seven different Daily Request Notice as per Annex E.
- 6.2.3. Daily Request Notice  
The SHIPPER may modify the above Weekly Request Notice by transmitting to ENI, not later than 9:00 a.m. of each Day, the Daily Request Notice valid for the following Day. A form of the Daily Request Notice is attached hereto as Annex E.  
If the SHIPPER does not submit a Daily Request Notice, the relevant quantities set out in the Weekly Request Notice pursuant to this Article 12 shall be deemed to be the Daily Request Notice for the relevant Day.  
In case the SHIPPER does not submit a Daily Request Notice and there is no Weekly Request Notice in accordance with this Article 12, no Natural Gas will be transported for the relevant Day.

### Article 13 Taxes and Duties

1. The Subletting Fee "F", according to Article 9, does not include VAT.  
ENI shall be authorised to add to the due Fee, according to Article 9 above, all the VAT, all taxes, customs and charges of similar nature applied by any competent authority with reference to the Subletting Service object of this Contract (except ENI income tax).
2. Without prejudice to Article 10, any other tax, duty and charge applied in *(to be defined in accordance with the result of the Auction Procedure)* on Natural Gas (not included in the Fee) shall be borne by the SHIPPER whereas ENI shall be exempt from any payment.
3. All the papers and actions relevant to the sale of Natural Gas shall be borne by the SHIPPER.
4. The SHIPPER is engaged to communicate to ENI through a written letter (anticipated by fax + 39 02 520 31934), not later than one month after the date of signature of this Contract, all the relevant data (the "Relevant Data") necessary to properly invoice the Subletting Service in the form attached as Annex G.
5. It is understood that in case, for any reason, the SHIPPER does not communicate the above mentioned Relevant Data the SHIPPER shall be liable and indemnify ENI towards the fiscal authorities for the lack of communication.

#### Article 14

##### Liability

1. Without prejudice to Articles 3, 5, 6, 10, 12 and 16, each Party shall be liable toward the other Party only in case of wilful misconduct or gross negligence and for direct damages only, excluding indirect and/or consequential damages.
2. Indirect and/or consequential damages shall include without limitation loss of profit, loss of good will, loss of business opportunity, loss of interest or business interruption howsoever caused, arising out of or in connection with the Contract, whether the claim is based upon contract, tort (including negligence), strict liability, statute or otherwise.

#### Article 15

##### Force Majeure

1. The expression Force Majeure shall mean any event, act, fact or circumstance which is unforeseeable and beyond the control of a Party acting or having acted as a Reasonable and Prudent Operator, which has repercussions on the Pipeline causing the failure to perform, totally or partially, the fulfilment of any obligation under this Contract as long as this cause of Force Majeure lasts.
2. Events which constitute Force Majeure as defined above, shall include, but not be limited to, the following:
  - wars, acts of terrorism, acts of sabotage, acts of vandalism, strikes;
  - forces of nature, floods, landslides, fires, earthquakes;
  - explosions, breakage or breakdown of pipelines and/or directly connected installations;
  - laws and acts of government or governmental authorities, included expropriations, that are beyond the control of the relevant Party acting as Reasonable and Prudent Operator.
3. The Party affected by Force Majeure shall be excused from the performance of its obligations under this Contract so far as and to the extent that said obligations are affected by Force Majeure. Any event of Force Majeure shall not have any effect on the expiry date of this Contract.
4. Should one of the Parties, by reason of Force Majeure, be unable, wholly or in part, to comply with its obligations under this Contract, the other Party shall be released from its corresponding obligations. The affected Party shall give notice to the other Party of the event constituting Force Majeure as soon as possible and such notice shall include information about the circumstances and a statement about the nature, the consequences and the foreseeable duration. Such notice shall be updated regularly. The affected Party shall take as soon as possible all necessary measures, as a Reasonable and Prudent Operator, in order to remedy the failure and to allow the fulfilment of the obligations under this Contract.
5. The Parties shall meet to discuss the possible solutions to overcome the event of Force Majeure at the request of one of the Parties.

#### Article 16

##### Bank Guarantee

1. Within the **27/11/2018**, the SHIPPER shall provide ENI with a credit guarantee on first demand issued by an internationally Primary Bank (the "**Bank Guarantee**") for an amount equivalent to 3 (three) monthly Subletting Fees as per Article 9. The Bank Guarantee must be conformed to the form herein attached as Annex F.  
The Bank Guarantee shall be in force until the date specified in clause 3 of Annex F and shall guarantee all the payments due under the Contract.
2. Should the SHIPPER fail to make available to ENI the Bank Guarantee as specified in Article 16.1 by the **27/11/2018**, or should the Bank Guarantee result not enforceable, ENI shall be entitled to suspend the execution of this Contract (in any case the SHIPPER shall be obliged to fulfil its obligation under Article 10) until and including the Day that follows the receipt of the valid Bank Guarantee.

Should the SHIPPER fail to make available to ENI the Bank Guarantee as specified in Article 16.1 by the **04/12/2018**, or should the Bank Guarantee result not enforceable, ENI shall be entitled to terminate

this Contract and the SHIPPER shall pay to ENI a penalty equal to 10% of the Subletting Fee which would have been due and payable for the entire life of this Contract if the Contract had not been terminated. Any termination of this Contract shall be without prejudice to the rights of the Parties accrued up to the date of termination. In such case ENI may enforce the Bid Bond as partial payment for the above mentioned penalty.

3. In case the SHIPPER fails to promptly comply with its obligations to pay under this Contract, ENI shall be entitled to enforce the Bank Guarantee under Article 16.1 above offsetting the relevant credit.

#### Article 17 Governing law and litigation

1. This Contract is executed in English and shall be governed by and construed in accordance with Italian law with the exclusion of all rules governing conflicts of laws.
2. Any dispute, controversy, difference or claim arising out of or related to this Contract which cannot be resolved by agreement between the Parties within forty (40) Days from the date of any notification of the existence of such dispute, controversy, difference or claim, shall be referred to the exclusive jurisdiction of the Court of Milan.

#### Article 18 Amendments

Amendments, modification or changing to this Contract shall only be effective if made in writing and signed by or on behalf of each of the Parties.

#### Article 19 Notices

Any notice required or permitted to be given under this Contract or for the purposes of this Contract to any Party shall be sufficiently given if delivered personally, or if sent by prepaid registered mail or if transmitted by fax to the persons at addresses as follows:

[Company name]

[Address]

Tel.: + .....

Fax: + .....

Attention: Mr. / Mrs.

**ENI S.p.A.**

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Milan - Italy

Tel.: +39 (0)2 520 31565

Fax: +39 (0)2 520 31611

Attention: Mr. Stefano Dicorradò

Email: supply.services@eni.com

or to any other address communicated to the above addresses.

Unless otherwise expressly provided herein, all notices hereunder shall become effective upon receipt.

#### Article 20 Confidentiality

Each Party, at all times, shall keep confidential, shall not disclose and shall procure that its Affiliates, officers advisors, employees and agents (the "Representatives") shall keep confidential and shall not disclose, any

confidential information which it may have or acquire in relation to the negotiation or performance of this Contract, except for any information:

- a. proved to be known by the Party prior to the information being disclosed by the other Party;
- b. part of the public domain at the time of disclosure;
- c. required to be disclosed to comply with any applicable law, regulation, or rule of any exchange, or regulatory body, or in connection with any court or regulatory proceeding or acts or orders of any municipal, national or other governmental agency or authority, whether domestic or foreign or any supra-national agency including without limitation the European Union; provided that each Party shall, to the extent practicable and permissible under such law, regulation, or rule, use reasonable efforts to prevent or limit the disclosure and to give the other Party prompt notice of it;
- d. which is disclosed by a Party to any professional advisers, provided such disclosure is made on a bona fide need to know basis and professional advisers agree to hold such information under equivalent terms of confidentiality;
- e. which is disclosed to the Operator as strictly necessary for the operation and implementation of the Contract.

The terms and conditions of this Article shall survive termination or expiration of this Contract, irrespective the reason for termination, for one (1) year.

#### Article 21 **Administrative Responsibility**

The SHIPPER declares to have reviewed and have knowledge of: (a) the contents of the document “Model 231”, including also the ENI Code of Ethics, drafted by ENI in accordance with the legislation in force regarding the administrative liability of legal entities for offences committed by their directors, employees and/or agents; (b) the “Anti-Corruption Management System Guideline”; (c) the Eni Guidelines for the Protection and Promotion of Human Rights. The documents under (a), (b) and (c) above are available on the website [www.eni.com](http://www.eni.com).

With reference to the performance of activities covered by the Contract, the SHIPPER undertakes to comply, and to cause its directors, staff and collaborators to comply, with the applicable laws, including the Anti-Corruption Laws applicable to eni (meaning (i) the anti-corruption provisions in the Italian Criminal Code and in other national applicable laws, including the Legislative Decree no. 231 2001, (ii) the FCPA, (iii) the UK Bribery Act, (iv) international anti-corruption treaties such as the Organization for Economic Cooperation and the Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the United Nations Convention against Corruption).

With respect to the performance of the activities under this Contract, the SHIPPER represents and warrants that it has given and implemented instructions to its directors, employees and/or agents, aimed at preventing any and all conducts in breach of the U.S. Foreign Corrupt Practices Act, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the United Nations Convention against Corruption and any other anti-bribery laws which may be applicable to the SHIPPER and undertakes vis-à-vis ENI to continue effectively implementing such instructions for the entire duration of this Contract. In particular and in accordance with the abovementioned laws and conventions, the SHIPPER undertakes to abstain (and to cause its directors, employees and/or agents to abstain) from, directly or indirectly, offering, promising, giving, paying or accepting any Public Official's request for a gift, or authorizing anyone to give or pay, directly or indirectly, any sums, other benefits or advantages or anything of value to or for a Public Official. For the purposes of this Contract, Public Official shall mean:

- a) anyone who performs public functions in a legislative judicial or administrative capacity;
- b) anyone acting in an official capacity for or on behalf of (i) a supranational, national, regional or local government, (ii) an agency, department, office or instrumentality of a supranational, national, regional or local government, (iii) a government-owned or government-controlled or government-participated company, (iv) a public international organization and/or (v) a political party, a member of a political party, an official or candidate for political office;
- c) anyone in charge of providing a public service; or
- d) any other person, individual or entity at the suggestion, request or instruction or for the benefit of any of the persons or entities referred to in paragraphs (a) to (c) above.

With respect to the performance of the activities under this Contract, the SHIPPER undertakes vis-à-vis ENI for the entire duration of this Contract to strictly abide by the principles of the ENI Code of Ethics and to respect human rights as defined in the ENI Guidelines on the Protection and Promotion of Human Rights, available on the website [www.eni.com](http://www.eni.com). In particular, the SHIPPER undertakes to abstain from:

- a) offering commissions, fees and other benefits to directors, employees or agents of ENI;
- b) entering into trade agreements with directors, employees or agents of ENI which may negatively affect the interests of ENI;
- c) starting business activities or entering into agreements with third parties in breach of the principles set out in the ENI Code of Ethics which would negatively affect the performance of this Contract;
- d) providing directors, employees or agents of ENI with non-property benefits also in the form of gifts, means of transportation, hospitality offers which go beyond the limits of the commonly accepted business ethical standard.

The Parties agree that any non-compliance, even partial, with the abovementioned representations, warranties and undertakings, which can be reasonably expected to result in adverse consequences for ENI, will be considered a material default under this Contract and will entitle ENI to unilaterally withdraw, even during its performance, or to terminate the Contract, by delivering notice via registered mail, which shall include a brief summary of the circumstances or of the legal proceedings demonstrating such non-compliance.

In the event of information that could reasonably imply such non-compliance, pending the required verifications or findings ENI will have the right to suspend the performance of the Contract by delivering notice via registered mail, which shall include a brief summary of the relevant information. Should the information be obtained from the media, ENI shall have the right to exercise such right when the information has been confirmed by an official document of the Judicial Authority and/or otherwise confirmed by the Judicial Authority.

The exercise of such rights will be to the sole detriment of the SHIPPER, which shall bear, in all cases, all additional expenses and costs and shall be liable for and defend, indemnify and hold harmless ENI from any third-party action arising from or consequential to such non-compliance.

## Article 22 Assignment

The Parties shall not have the right to assign its rights and obligations under this Contract without the prior written consent of the other Party, which shall not be unreasonably withheld if the assignee proves to be financially sound in relation to the payment obligations under this Contract.

Such assignment shall become effective upon the assignee submitting a Bank Guarantee in accordance with Annex F of the Contract.

For avoidance of doubt a partial assignment of the Contract shall not be permitted.

Made and entered into as of the 20/11/2018 in Milan

For and on behalf of

ENI S.p.A.

.....

For and on behalf of

[Company name]

.....

For express acceptance of the following clauses:

Article 3 – Subletting Obligations and Overrun,  
Article 6 – Quality and pressure of Gas,  
Article 8 – Interruption and/or Reduction of Subletting Service,  
Article 10 – Invoicing and Payment,  
Article 12 – Programs,  
Article 13 – Taxes and Duties,  
Article 14 – Liability,  
Article 15 – Force Majeure,  
Article 16 – Bank Guarantee,  
Article 17 – Governing law and litigation,  
Article 21 – Administrative Responsibility,  
Article 22 – Assignment.

For and on behalf of

[Company name]

.....

#### **ANNEX A**

The Gas delivered by SHIPPER at the Intake Point shall comply with the following quality and pressure specifications (to be defined in accordance with the result of the Auction Procedure).

#### **ANNEX B**

The Gas redelivered to SHIPPER at the Offtake Point shall comply with the following quality and pressure specifications:  
(to be defined in accordance with the result of the Auction Procedure).



## ANNEX C

### Contact Information

Communications connected with the nomination and matching in accordance with Article 12 shall be directed to:

**OPERATOR (as Service Provider): FluxSwiss Sagl**

**ENI S.p.A.**  
Gas & LNG Marketing and Power  
Piazza Vanoni, 1  
20097 San Donato Milanese  
Milan - Italy  
Tel.: +39 (0)2 520 41089 (GOS)  
Fax: +39 (0)2 520 51647 / 51421 (GOS)

E-mail: [commercial.operations@eni.com](mailto:commercial.operations@eni.com)

**SHIPPER:**

**[Company name]**  
**[Address]**  
Tel.: +.....  
Fax: +.....  
**Dispatching**  
Tel.: + .....  
Fax: + .....  
Tel. (24 hours Service): + .....

E-mail:

Attention: Mr. / Mrs.

## ANNEX D

## MONTHLY QUANTITY REPORT

*(to be defined in accordance with the result of the Auction Procedure).*

## ANNEX E

|              |         |
|--------------|---------|
| sender       | ENI GP  |
| receiver     | REQUEST |
| message type | kWh/h   |
| unit         |         |
| contract     |         |

|       |                    |            |
|-------|--------------------|------------|
|       | connection point   |            |
|       | sub contract       |            |
|       | upstream shipper   |            |
|       | downstream shipper |            |
|       | date               | 01/05/2012 |
| from  | to                 | quantity   |
| 6.00  | 7.00               |            |
| 7.00  | 8.00               |            |
| 8.00  | 9.00               |            |
| 9.00  | 10.00              |            |
| 10.00 | 11.00              |            |
| 11.00 | 12.00              |            |
| 12.00 | 13.00              |            |
| 13.00 | 14.00              |            |
| 14.00 | 15.00              |            |
| 15.00 | 16.00              |            |
| 16.00 | 17.00              |            |
| 17.00 | 18.00              |            |
| 18.00 | 19.00              |            |
| 19.00 | 20.00              |            |
| 20.00 | 21.00              |            |
| 21.00 | 22.00              |            |
| 22.00 | 23.00              |            |
| 23.00 | 0.00               |            |
| 0.00  | 1.00               |            |
| 1.00  | 2.00               |            |
| 2.00  | 3.00               |            |
| 3.00  | 4.00               |            |
| 4.00  | 5.00               |            |
| 5.00  | 6.00               |            |
|       | total              | 0          |

## ANNEX F

### Form of the Bank Guarantee

[On Bank's letterhead]

To:

ENI S.p.A.  
Piazza Vanoni, 1  
20097 San Donato Milanese (Milan) Italy

This **Bank Guarantee** is issued on this [ Day ] of [ Month ] 2018 by [Bank's details to be inserted] (the "Guarantor") in favour of ENI S.p.A. a company established under the laws of Italy having its registered office at Piazzale Enrico Mattei 1, Roma ITALY (together with its successors and permitted assignee "ENI").

Whereas:

- ..... [Shipper's details to be inserted] ..... (the "Shipper") on the 20/11/2018 ("Effective Date") enters into a subletting agreement (n. 20180xx) (the "Subletting Agreement") with ENI concerning the subletting by ENI of transmission capacity through the [GRTGAZ - TRANSITGAS or TRANSITGAS] Pipeline System;
- It is a condition under Article 16 of the Subletting Agreement that within 27/11/2018 the Shipper shall lodge at the benefit of ENI as security for all the payments due under the Subletting Agreement a Bank Guarantee for an amount of Euro [3 (three) monthly subletting Fee "F" as set forth in Article 9 of the Subletting Agreement] (Euro in letters) (the "Bank Guarantee").

Now, therefore, all this being stated:

1. We undersigned ..... [full details of the bank to be inserted] ..... formally, firmly, irrevocably and unconditionally undertake to pay upon your first demand any sum up to Euro [ ] (Euro in letters) (the "Maximum Amount") within 5 (five) days from the receipt of your written duly signed request stating that the Shipper has failed to promptly comply with its obligations to pay under the Subletting Agreement, regardless of possible objections of whatever kind that could be put forward by the Shipper or by whoever third party and without necessity of legal actions or court proceedings.
2. ENI shall be entitled to enforce the present Bank Guarantee several times until the Maximum Amount is exhausted.
3. The present Bank Guarantee is valid from the date hereof and shall remain in full force and effect until the earliest of:
  - I. the date on which all duties, liabilities and obligations of Shipper under the Subletting Agreement have been finally and definitively discharged, or
  - II. the date on which the Guarantor has paid to ENI under this Bank Guarantee an aggregate amount equal to the Maximum Amount.

Anyway, this Bank Guarantee shall expire on 01/08/2019; after such date this Bank Guarantee will automatically become null and void.

4. The present Bank Guarantee shall be governed by the Italian law. Any dispute, controversy or claim arising out of or related to this Bank Guarantee shall be referred to the exclusive jurisdiction of the Court of Milan.

[Date and Place]

[Bank's stamp and signature]\*

For express acceptance of the following clauses:

Clause 1 – Payment at first demand regardless of possible objections of whatever kind;

Clause 4 – Law and Jurisdiction.

*[Date and Place]*

*[Bank's stamp and signature]\**

*\* Note: This document has to be signed in both places indicated herein above in order to be considered valid.*

**Annex G – Relevant Data**

**SHIPPER DETAILS FORM**

[print on the SHIPPER's letterhead]

**COMPANY**

- Company name:
- Address:
  
- Phone number:
- Fax number:
- The company is  
incorporated under  
the laws of:
- VAT Number:

**CONTACTS**

**Administrative contact:**

- Contact name:
- Function:
- Address:
  
- Phone number:
- Fax number:
- Mobile:
- Email address:

## INVOICING

### Main Invoicing

- Company name:
- Invoicing contact name:
- Address:
  
- Phone number:
- Fax number:
- Email address:
- Bank name:
- Account number:
- IBAN Code:
- BIC Code:
- VAT number:

### Invoicing Mailing Address

- Company name:
- First Name:
- Surname:
- Function:
- Address:
- Email address:

### Fiscal Representative (if applicable)

- Company name:
- First Name:
- Surname:
- Function:
- Address:
  
- VAT number: