

FOUNDATION CAPACITY AGREEMENT

THIS FOUNDATION CAPACITY AGREEMENT (Capacity Agreement) is dated [●] and made **BETWEEN:**

- 1 [●], a company incorporated and existing under the laws of [●], with VAT number [●] and having its registered office at [●], (the **Customer and a Foundation Capacity User**); and
- 2 **OLT Offshore LNG Toscana S.p.A**, a company incorporated and existing under the laws of the Republic of Italy, registered in Italy under number and fiscal code/VAT code number 07197231009 and whose principal office is located at Piazza della Repubblica 22, 20124 Milan, Italy (the **Operating Company**),

WHEREAS:

- A. The Customer wishes to obtain services at the FSRU Toscana Terminal on the terms set out in this Capacity Agreement;
- B. the Customer is a Foundation Capacity User and, as such, is entitled to the rights and subject to the obligations of a Foundation Capacity User on the terms set out in this Capacity Agreement; and
- C. the Customer is an Umbrella Member and shall be entitled to the rights and subject to the obligations of an Umbrella Member on the terms set out in this Capacity Agreement.

THE CUSTOMER AND THE OPERATING COMPANY AGREE TO BE LEGALLY BOUND AS FOLLOWS:

1 Definitions and interpretation

1.1 Definitions

All the capitalised terms used in this Capacity Agreement shall, unless otherwise defined, have the same meaning given in Clause 1.1.1 of the Access Code.

In addition, the following terms shall have the meaning given to them below:

Access Code means the access code published on the Operating Company's website, as may be amended and restated from time to time according to the applicable rules set forth by the Gas and Electric Power Authority;

Access Request means an irrevocable written request from the Customer (in its capacity as a User or Applicant) to the Operating Company for the purposes of requesting Foundation Capacity, with the effect of making the acceptance by said User or Applicant binding for the Foundation Capacity allocated by the Operating Company.

Agreed Percentage has the meaning given in Article 5.1.3;

Article means an article of the Capacity Agreement;

Clause means a clause of the Access Code;

Effective Date means the date first written above;

Expiry Date has the meaning given in Article 2;

Purchased Capacity has the meaning given in Article 3.1;

Service Period means the period from 1st October 20XX until 30th September 20XX;

Term means the period from the Effective Date until the Expire Date;

1.2 Interpretation

- 1.2.1 This Capacity Agreement comprises the following documents which shall be read together as one single agreement and shall, in the event of conflict between them, be prioritised in the following order, except where the provisions of the Access Code must prevail as a matter of Applicable Law or as required by the Gas and Electric Power Authority:

- (a) the Capacity Agreement; and
- (b) the Access Code, as if set out in full in this Agreement.

1.2.2 This Capacity Agreement shall be interpreted in accordance with the provisions set out in Clause 1.1.2 of the Access Code.

1.2.3 The Customer is a Foundation Capacity User and shall be entitled to the rights and subject to the obligations of a Foundation Capacity User as set out in this Capacity Agreement.

1.2.4 The Parties acknowledge that:

- (a) at the Effective Date, the general conditions of contract/first draft of the Access Code have been subject to consultation in accordance with the provisions of Resolution 55/09 and have been delivered to the Gas and Electric Power Authority, which will be automatically replaced by the Access Code once approved; and
- (b) the Access Code shall be approved in the Italian language, therefore the English versions shall be considered as a not binding courtesy translation.

2 Subject matter and term

2.1 Subject matter of the contract

The Operating Company shall allocate Foundation Capacity to a Foundation Capacity User, in accordance with the amount indicated by the User in the Access Request.

2.2 Term of this Capacity Agreement

This Capacity Agreement commences on the Effective Date and terminates at the end of the Service Period or, if later, at the end of the relevant Redelivery Period (the **Expiry Date**).

3 Services and Access Conditions

3.1 ACQ and sale and purchase of services

The Customer's ACQ shall be [•] mc_{liq} per annum with associated [•] Maximum Number of Berthing Slots per annum for the duration of the Service Period (the **Purchased Capacity**), subject to any adjustments in accordance with this Capacity Agreement. In accordance with the terms of this Capacity Agreement, the Operating Company shall provide and the Customer shall pay for all Services related to the Purchased Capacity.

3.2 Satisfaction of Access Conditions

For the whole duration of the Service Period and in any case in accordance with Article 2.1.2 of the Access Code, the Customer shall be required to satisfy all of the Service Conditions.

The Customer declares to agree, have read and accepted all the applicable provisions set forth in the Access Code and, in particular, the clauses of Schedule 1 of this Capacity Agreement.

4 Service Charges

The Customer hereby agrees to pay for all Services related to the Purchased Capacity on the basis of the tariff approved in accordance with the relevant Gas and Electric Power Authority's regulation.

The fee for the transportation service within Snam Rete Gas grid is determined according to the Access Code applying the transportation rates approved by the Gas and Electric Power Authority. The Customer also undertakes to pay for the relevant gas amounts due in kind from the Operating Company to Snam Rete Gas to cover consumption connected to the transportation service, in accordance with resolutions no. ARG/gas 184/09, ARG/gas 192/09 and ARG/gas 198/09.

5 Service transfers

5.1 The Slot Price

5.1.1 The Slot Price, which shall be set by the Operating Company in accordance with the relevant Gas and Electricity Power Authority's regulation, shall be published by the Operating Company for any Released Slot awarded by the Operating Company to a successful Applicant or any Slot Price to be charged by the Customer to a Permitted Transferee.

5.1.2 The Slot Price shall consist of the Agreed Percentage of the annual amount due by the Customer for the annual Terminal and grid capacity charge;

5.1.3 For the purposes of this Article 5.1, **Agreed Percentage** means the percentage determined by the following formula:

$$\text{Agreed Percentage} = \frac{SC}{MC}$$

where:

SC = the amount of mcl_{iq} relating to the size of the allocated Released Slot that is the subject of, and in so far as it relates to, the relevant Slot Release Transfer or Voluntary Slot Transfer, as the case may be; and

MC = the ACQ in mcl_{iq} of the Customer for the relevant Gas Year, provided that the ACQ shall only be adjusted for Slot Release Transfers or Voluntary Slot Transfers as the case may be for this purpose.

5.1.4 If the Operating Company completes a Slot Release Transfer pursuant to Clause 3.2.4.2 of the Access Code, promptly following receipt by the Operating Company of payment of the Slot Price, the Operating Company shall pay an amount to the Customer to cover what was already paid by the Customer pursuant article 5.1.2, and will retain the amount that would have been paid by the Customer from the Month in which the Released Slot is programmed until the end of the relevant Gas Year. It is understood that the Permitted Transferee will

be charged with all commodity charges in connection to such Released Slot in accordance with Articles 5.2.1.4, 5.2.1.6 and 5.2.1.7 (b), (c) and (d) of the Access Code.

- 5.1.5 If the Customer completes a Voluntary Slot Transfer pursuant to Clause 3.2.3 of the Access Code, promptly following receipt by the Operating Company of payment of the Slot Price, the Operating Company shall pay an amount to the Customer to cover what was already paid by the Customer pursuant article 5.1.2, and will retain the amount that would have been paid by the Customer from the Month in which the transferred Slot is programmed until the end of the relevant Gas Year. It is understood that the successful Applicant will be charged with all commodity charges in connection to such transferred Slot. It is understood that the Customer shall pay the fee in accordance with Article 3.2.1.2 of Access Code.

6 Security Amount, Required Credit Rating or Required Credit Support

The Customer shall provide, when requesting the Foundation Capacity, a guarantee pursuant to Clause 2.1.5 of the Access Code.

The provisions of Clause 3.1.1.3 of the Access Code shall apply from the Effective Date.

7 Notices

The contact, postal address and email address for each Party is (unless otherwise notified):

(a) in the case of the Operating Company as follows:

Address: Piazza della Repubblica 22, 20124 Milano, Italia

Email: [insert email address]

Attention: [insert name]

(b) in the case of the Customer:

Address: [insert address]

Email: [insert email address]

Attention: [insert name]

8 Required Changes

Pursuant to this article, the Customer accepts and agrees to comply with the provisions in Chapter 6 of the Access Code.

9 Approval as required by the Italian Civil Code

The Customer, hereby, unconditionally approves, pursuant to and for the purposes of articles 1341 and 1342 of the Italian Civil Code, the Clauses of the Access Code set out in Schedule 1.

10 Applicable Law

This Capacity Agreement and the relationship between the Parties shall be governed by and interpreted in accordance with Italian Law, provided that the statutory rules governing international purchase (CISG 1980) shall be excluded.

11 Severability

If any provision of this Capacity Agreement shall be found by any court, government, body or regulatory or administrative body of competent jurisdiction (including the Gas and Electric Power Authority) to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Capacity Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid and enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid and unenforceable provision.

Schedule 1

Approval of Clauses of the Access Code for the purposes of Art. 1341/1342 of the Italian Civil Code

The Customer declares to agree, have read and accepted all the applicable provisions set forth in the Access Code and, pursuant to arts. 1341 and 1342 of the Italian Civil Code, the Customer declares to have reviewed the above terms and conditions and to be familiar and to approve specifically the following clauses of the Access Code:

- Clause 1.4.1.3 “Interruptible Redelivery Services”;
- Clause 3.2.1 “No transfers unless expressly permitted and reimbursement of the Operating Company’s costs”
- Clause 3.2.3 “Voluntary Transfer”
- Clause 3.2.5.4 “Repayment of Borrowed LNG and Reallocation of LNG”
- Clause 3.3.1.4 “Resolution of Scheduling Conflicts”
- Clause 3.3.2.4. “Ninety Day Unloading Schedule”
- Clause 3.7.2 “Gas Quality”
- Section 3.9 “Service Reductions and Allocation of Available Services”
- Chapter 4.1 “Maintenance Planning and Management”
- Clause 5.2.2.7 “Adjustment of errors”
- Clause 5.2.2.8 “Invoicing disputes”
- Clause 5.3.1.4 “Damage to LNG and Gas”
- Clause 5.3.1.8 “Limitation of the Operating Company’s liability”
- Clause 5.3.1.10 “No indirect or consequential costs or damage”
- Clause 5.3.1.11 “Notification and conduct of claims”
- Clause 5.4.2 “Dispute Resolution”
- Clause 5.4.2.8 “Time limit for claims”
- Clause 6.1.1 “Required works of the Terminal following a Change in Law”

[Applicant]

By:

Title: