

NATIONAL COMMISSION ON MARKETS AND COMPETITION

Resolution of 15 April 2020 of the National Commission on Markets and Competition, approving the framework agreement for access to gas system facilities.

In accordance with Circular 8/2019, of 12 December, of the National Commission on Markets and Competition, establishing the methodology and conditions for access and allocation of capacity in the natural gas system, the Regulatory Oversight Chamber has agreed to issue this resolution:

Background

On 21 April 2016, the National Commission on Markets and Competition, in accordance with the second additional provision of Royal Decree 984/2015, of 30 October, which regulates the organised gas market and third-party access to natural gas facilities, sent a proposal for a standardised model of contracts for access to the facilities of the gas system to the then Ministry of Industry, Energy and Tourism. The aforementioned standardised model was approved by Resolution of 2 August 2016, of the Secretary of State for Energy, which approved the framework agreement for access to the facilities of the Spanish gas system.

On the basis of Commission Regulation (EU) No. 2017/459, of 16 March 2017, establishing a network code on capacity allocation mechanisms in gas transmission networks, Circular 3/2017, of 22 November, on capacity allocation mechanisms to be applied in international gas pipeline connections in Europe was approved. The said circular, which repealed the previous Circular 1/2014, was published in the "Official State Gazette", of 29 November 2017.

In implementation of said Circular 3/2017, the National Commission on Markets and Competition approved a framework agreement adapted to European and Spanish regulations, through the Resolution of 18 January 2018, which approved the framework agreement for access to the transport and distribution system of Enagás Transporte, S.A.U., through international gas pipeline connections with Europe.

On 11 January 2019, Royal Decree-Law 1/2019 on urgent measures to adapt the powers of the National Commission on Markets and Competition to the requirements of community law in relation to Directives 2009/72/EC and 2009/73/EC of the European Parliament and of the Council, of 13 July 2009, concerning common rules for the internal market in electricity and natural gas was approved. This Royal Decree-Law amended Article 7.1 of Law 3/2013 of 4 June, establishing the National Commission on Markets and Competition, assigning to this Commission the function of establishing, by means of a circular, the methodologies used to calculate the conditions for connection and access to the gas and electricity networks. Furthermore, Royal Decree-Law 1/2019 amended Article 70 of Law 34/1998, of 7 October, on the hydrocarbons sector, concerning access to regasification, basic storage, transport and distribution facilities, assigning the National Commission on Markets and Competition the power to approve the methodology and conditions for access and connection.

The approval of Circular 8/2019, of 12 December, of the National Commission on Markets and Competition, establishing the methodology and conditions for access and capacity allocation in the natural gas system, makes it necessary to approve a new framework agreement for access to the facilities of the Spanish gas system, adapted to the new regulations. The fourth transitional provision of said Circular 8/2019 establishes that until the National Commission on Markets and Competition approves the framework agreement or standard contract model for access to the gas system facilities, said contract would be the one approved by the aforementioned Resolution of 2 August 2016, of the Secretary of State for Energy, which approved the framework agreement for access to the Spanish gas system facilities.

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This resolution approves the framework agreement for access to facilities, which replaces the one approved by the Secretary of State for Energy, and unifies in a single framework agreement the procurement of access to international gas pipeline connections with Europe and access to other gas facilities with access rights.

The National Commission on Markets and Competition has submitted this proposal for a hearing process to the interested parties and to the Hydrocarbons Advisory Council.

On 21 February 2020, and in accordance with the tenth transitional provision of Law 3/2013, of 4 June, the "Proposal for a resolution of the National Commission on Markets and Competition approving the framework agreement for access to the gas system facilities" was sent to the Hydrocarbons Advisory Council, so that its members may present the allegations and observations they deem appropriate within a period of ten working days.

Likewise, on 21 February 2020, in compliance with the public information process, the aforementioned proposal for a resolution was published on the CNMC website so that they could make their allegations within the same ten working day period.

Legal grounds

One.

In accordance with the duties entailed by Article 7.1.f) of Law 3/2013, of 4 June, the National Commission on Markets and Competition approved CNMC Circular 8/2019, of 12 December, establishing the methodology and conditions for access and capacity allocation in the natural gas system.

Article 20 of the aforementioned Circular 8/2019 establishes that the National Commission on Markets and Competition shall approve, by means of a resolution, the framework agreement or standard contract model for access to gas system facilities and the addenda required to include the contracted capacities. This model shall be integrated in the relevant online platforms for requesting and contracting capacity and in the single portal for contracting exit capacity of the distribution networks, and shall be signed by the parties electronically. The minimum conditions of the access agreement to be signed shall relate to the subject liable for payment of tolls and access fees, the period for payment and breach of the obligation to pay tolls and fees.

Two.

In accordance with Article 7.1.f) of Law 3/2013, of 4 June, in its wording prior to Royal Decree-Law 1/2019, of 11 January, this Commission approved Circular 3/2017, of 22 November, on the capacity allocation mechanisms to be applied in international gas pipeline connections in Europe.

Section five of the circular states that in order to participate in capacity allocation procedures by auction, direct shippers or consumers must first sign, independently of the procedures to be carried out with the operators on the other side of the interconnection points, a framework agreement with the interconnection operator on the Spanish side, which shall establish the conditions of the transport service and the obligations and responsibilities of the parties. The same fifth section of Circular 3/2017 states that the framework agreement shall describe, at least, the purpose of the agreement, the entry into force and duration of the agreement, the obligations and responsibilities of the parties, the conditions for providing the contracted services and the payment and invoicing conditions. The model framework agreement approved by the National Commission on Markets and Competition may be amended by means of a decision of the latter.

Given that, following the approval of Royal Decree-Law 1/2019, both the framework agreement for access to international gas pipeline connections with Europe and the agreement for access to other gas facilities with the right of access are the responsibility of the CNMC, this Resolution unifies both agreements into a single framework agreement, rendering both the Resolution of 18 January 2018 and the contract model currently in force ineffective.

In view of the foregoing, the Regulatory Oversight Chamber of the National Commission on Markets and Competition, resolves:

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One.

To approve the framework agreement for access to the Spanish gas system facilities subject to third party access and the document of adhesion to the framework agreement for access attached to this resolution as Appendices I and II, respectively.

The framework agreement and the document of adhesion will also be available on the National Commission on Markets and Competition website and on the website of the technical manager of the system.

Two.

To render void, in the terms resulting from the following third resolution, the Resolution of 18 January 2018, which approves the framework agreement for access to the transport and distribution system of Enagás Transporte, S.A.U., through international gas pipeline connections with Europe.

Three.

Subjects with framework access agreements in force must adapt their agreements to the model framework agreement subject to approval by signing the document of adhesion attached to this resolution.

The process of adapting agreements shall be carried out within a maximum of three months from the date on which this resolution takes effect. The technical manager of the system shall make the document of adhesion to the framework agreement available for electronic signature by all parties.

Four.

This resolution will take effect on the day following its publication in the "Official State Gazette".

Please communicate this resolution to the Directorate General for Energy Policy and Mining and to Enagás GTS S.A.U.

This resolution ends the administrative procedure and no application for reconsideration may be entered, in accordance with Article 36.2 of Law 3/2013, of 4 June. However, a contentious-administrative appeal may be filed against this resolution with the National High Court within two months of the day following its publication in accordance with the fourth additional provision, 5, of Law 29/1998, of 13 July. However, it should be noted that, in accordance with the second additional provision of Royal Decree 463/2020, of 14 March, "the terms and the time limits provided for in the procedural laws for all jurisdictional orders are suspended and interrupted. The calculation of the time limits will be resumed when this royal decree or, where appropriate, its extensions, becomes invalid".

Madrid, 15 April 2020 – The Secretary to the Board of the National Commission on Markets and Competition, Joaquim Hortalà i Vallvé.

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APPENDIX I

Framework agreement for access to the Spanish gas system facilities

Party of the first part,

- Operators/Managers of regasification plants.
- Operators/managers of underground storage facilities.
- Operators/managers of transmission networks.
- Operators/managers of facilities for international gas pipeline connections with Europe.
- Gas distributors.

hereinafter, the “operator”.

And

- technical manager of the system.

hereinafter, the “Technical manager of the system”.

And party of the second part, those subjects with the right to access the Spanish gas system (hereinafter, the “user”).

Hereinafter the operator, the technical system manager and the user are jointly referred to as the “parties”.

DO HEREBY DECLARE

I. That the operator is the owner or manager of one of the facilities covered by this agreement.

II. That the technical manager of the system is responsible for the operation and technical management of the basic and secondary transmission network, and shall ensure the continuity and security of the natural gas supply and the correct coordination between access points, storage, transmission and distribution. Likewise, the technical manager of the system manages the capacity request and contracting platform through which this framework agreement will be signed, enabling the user to contract services and products through all the gas system access trading platforms.

III. That the user, making use of the right of access to the gas system facilities conferred under Law 34/1998, of 7 October, on the hydrocarbons sector, CNMC Circular 8/2019, of 12 December, establishing the methodology and conditions for access and allocation of capacity in the natural gas system (hereinafter, Circular 8/2019), CNMC Circular 3/2017, of 22 November, establishing the mechanisms for the allocation of capacity to be applied in international gas pipeline connections with Europe (hereinafter, Circular 3/2017), and other applicable regulations, is interested in receiving from the operator or operators the provision of certain services, with the participation of the technical manager of the system in the manner required by the applicable regulations and this framework agreement.

IV. That this agreement sets out the terms and conditions governing the procurement of access to the facilities of the Spanish gas system and the provision of access services, including access to international gas pipeline connections with Europe.

V. That the parties are in possession of the relevant administrative authorisations and other legal requirements for the exercise of their respective activities.

VI. That the parties submit this agreement to all provisions of legislation in force governing third-party access to gas facilities and the mechanisms for capacity allocation in gas facilities, in particular the CNMC circulars, the technical management regulations, the management of guarantees standards, as well as all those provisions that in the future could regulate matters that are the subject of this agreement.

VII. That the adhesion to the present framework agreement through the signing of the document of adhesion to the same, allows the subscription requirements of a framework agreement established in both Articles 4 and 20 of Circular 8/2019 and in the fifth section of Circular 3/2017 to be fulfilled through a single agreement.

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In consideration of the foregoing statements, both parties - mutually recognising the necessary capacity - agree to grant and sign this framework agreement, bringing it into effect under the terms and conditions set out in the following

CLAUSES

1. Purpose. The purpose of this agreement is to enable the user to procure access services to the Spanish gas system facilities subject to third party access in accordance with the provisions of Article 60 of Law 34/1998, of 7 October, Circular 8/2019 and Circular 3/2017, in accordance with the stipulations of this agreement and the applicable regulations, in exchange for the financial consideration established.

2. Scope of application. This agreement applies to users and operators of the Spanish gas system, including operators holding international gas pipeline connections with Europe, for the purpose of purchasing capacity at gas facilities. Likewise it shall apply to subsequent transactions of this capacity on the secondary market. It shall also apply to the intervention of the corresponding technical manager of the system under the terms of current regulations and this agreement.

3. Document of adhesion. This agreement shall be subscribed through the signing of the document of adhesion to the agreement, approved by resolution of the National Commission on Markets and Competition. Adhesion to the agreement shall be effective between all parties that have adhered to it. The signing of the document of adhesion will also have the effects provided for in section five of Circular 3/2017, as regards the signing of a framework agreement with the interconnection operator on the Spanish side.

4. Effective date.

4.1 The agreement shall come into force on the day after signing the respective document of adhesion.

4.2 The contracting of the corresponding capacity product through the contracting procedures and platforms indicated in CNMC Circular 8/2019 and Circular 3/2017 shall create contractual rights and obligations for the contracted capacity from the moment it is contracted and shall have the corresponding duration in accordance with the nature of the product and service contracted.

4.3 This agreement and the addenda hereto represent a firm and fully binding commitment for the parties.

4.4 This agreement includes all the undertakings accepted by the parties.

4.5 In the event that a new contract model or an amendment thereof is approved, the parties undertake to sign the new applicable framework agreement.

5. Definitions and interpretation.

5.1 The terms used in this agreement and which do not appear expressly defined herein shall have the meaning and must be construed pursuant to Commission Regulation (EU) No. 2017/459, of 16 March 2017, Law 34/1998, of 7 October, Circular 8/2019, Circular 3/2017, CNMC Circular 2/2020, of 9 January, establishing natural gas balance standards, the applicable tolls and charges, technical management regulations and other applicable regulations in force and, in the absence thereof, they must be construed in accordance with their ordinary meaning.

5.2 Virtual interconnection points (VIP), as defined in Article 3.23 of Commission Regulation (EU) No. 2017/459 of 16 March 2017, are understood to be two or more interconnection points connecting the same adjacent input/output systems, which are integrated for the purpose of providing a single capacity service.

For the purposes of contracting capacity in international connections with Europe, two VIP will be considered, as follows:

– VIP Spain-Portugal: including physical interconnection points between adjacent transmission networks Tuy-Valença do Minho and Badajoz-Campo Maior.

– VIP Spain-Portugal: including physical interconnection points between adjacent transmission networks Larrau – Alçay and Irún – Biriátou.

5.3 In the event of any discrepancy between the provisions of the framework agreement and current legislation, the latter shall prevail.

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6. Procurement of access services and products.

6.1 Access services will be contracted through the online capacity contracting platforms referred to in Circular 8/2019 and Circular 3/2017, and in accordance with the applicable capacity allocation and contracting procedures, in accordance with the regulations in force, including, where applicable, implicit capacity allocation processes.

6.2 Once the processes for allocating capacity and validating guarantees have been completed, each trading platform shall automatically generate an electronic addendum or appendix to the framework agreement which shall be considered an integral part of this agreement, and shall set out the characteristics of the service contracted between the user with the right to access and the operator or operators of the relevant facilities, and where appropriate, the technical manager of the system, generating the appropriate effects for both parties.

6.3 The platform shall generate different addendum or appendices for each product and service contracted, with a unique identifier code, and which shall specify the facility contracted, the product type, the parameters that define the contracted amount, the start date and the duration of the service contracted.

The addenda or appendices must contain all the information required for the correct identification, contracting and invoicing of the product or products contracted

The addenda or appendices shall include at least the following information:

- a) The user contracting access.
- b) The operator or operators of the facilities.
- c) The products and services contracted.
- d) The point(s) or the facility where capacity is contracted.
- e) The date on which the service was contracted (where applicable, the date of the auction or process of implicit allocation of capacity).
- f) The start date for the provision of services.
- g) The end date for the provision of service
- h) The duration of the service.
- i) The nature of the capacity (firm/interruptible).
- j) The contracted capacity.
- k) The applicable access toll and charges.
- l) The premium on the regulated toll.

For the contracting of exit capacity from the Virtual Balancing Point to end consumers, contracts of indefinite duration may be chosen, not associated with the start date or the standard contracting periods.

In the case of added services, a single addendum will be created with the information required for each of the services contracted jointly. In addition to the addendum's identification code, each of the services contracted will have a unique identification code.

6.4 The procurement of any of the access services shall require the authorisation of the users with the technical manager of the system in order to have a balance portfolio in TVB, PVB and/or AVB, through signing the framework agreement for the authorisation of the balance portfolio provided for in Circular 2/2020, of 9 January, establishing the natural gas balance standards.

7. Addenda or appendices to the framework agreement.

7.1 The addenda or appendices to the framework agreement on the ship unloading services, truck loading, loading of LNG from plant to ship, LNG ship-to-ship transfer, ship cooling, entry and exit of the Virtual Balancing Point from any location (except entry and exit from regasification plants and basic underground storage facilities) and exit of the Virtual Balancing Point to a consumer, shall be signed by the users and operators of the infrastructures on which the service is provided.

7.2 Any addenda or appendices to the framework agreement relating to the other services shall be signed by the users, the operators of the infrastructures concerned and the technical manager of the system.

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8. Catalogue of products to access the gas system.

8.1 Chapter II of Circular 8/2019 lists the gas system access services available for contracting, as well as the standard products for contracting capacity available for each of them. The products and services relating to the allocation of transmission capacity in the international gas pipeline connections of the Spanish gas system with Europe are set out in Circular 3/2017.

8.2 The conditions for provision of the contracted services and products shall comply with the provisions of the regulations in force at all times.

9. General conditions for the provision of services.

9.1 Gas quality. The LNG or natural gas delivered by the user or by the operator at the entry/exit point of the gas system must comply with the quality specifications set out in prevailing legislation and, in particular, in the technical management of the system regulations.

9.2 Own consumption and shrinkage. The percentage corresponding to shrinkage and own consumption due to operations inherent to the use of the facility shall be discounted from the total natural gas of the user, for the reasons and in the amounts established in the prevailing regulations. When the percentages established by the relevant regulations are changed, the new percentages shall be applied in accordance with the terms of the regulations providing for said change.

9.3 Gas balancing. Gas balancing in gas facilities will be carried out in accordance with CNMC Circular 2/2020, establishing the balancing regulations of the gas system and in accordance with the technical management regulations.

9.4 Nominations and distribution of gas. The nominations and distribution of gas will be adapted to the regime established in the technical management regulations.

No nominations may be made that exceed the contracted capacity except for:

- The services for which the current legislation determines that there is flexibility of use.
- Those services where supernomination contracting is allowed.

9.5 Interruptibility: The services that include interruptibility will be provided in accordance with the prevailing Spanish and European regulations and, if applicable, with the conditions for interruption approved by the National Commission on Markets and Competition.

10. Obligations and responsibilities of the parties.

10.1 The parties shall be liable for breach of the obligations and services assumed pursuant to this agreement, in accordance with the provisions set out herein and with prevailing legislation.

10.2 Notwithstanding the foregoing, and pursuant to the terms of Clause 19, neither party shall be liable in the event of breach due to situations of force majeure or fortuitous event.

10.3 In accordance with current legislation, the operators and the technical manager of the system shall carry out the contracted services in the agreed quantities and under the agreed conditions, enabling the user to receive the gas in accordance with the conditions of regularity and quality established in this agreement. The operators shall take into account the guidance of the technical manager of the system for the provision of the contracted services.

10.4 The relevant operator shall accept the risk of damage or loss of the gas received at the point of entry of its facilities and up to the point of exit, unless said damage or loss is attributable to the user, and set out in the provisions of the following section 10.5.

10.5 In the case of non-local services, breach of contract by the operator of a facility as a result of compliance with an instruction or order issued by the technical manager of the system shall not lead to the operator being liable; the aforementioned manager shall assume the consequences of the order.

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10.6 Each party, in their respective fields, shall be exclusively liable to the others and to third parties for obtaining and maintaining all licences, permits and authorisations necessary for the performance of their activities in this agreement.

10.7 Each party shall take out and keep in force the corresponding insurance policies to cover the risks to persons or property arising from the exercise of their respective activities.

11. Operation of the system.

11.1 Each operator shall be responsible for the management and operation of its facilities and for maintaining such facilities in proper conditions of upkeep, security and technical suitability, in coordination with other operators and the technical manager of the system, all in accordance with the provisions set out in prevailing legislation.

11.2 The user shall report its consumption schedules and any impact on such consumption in the time and manner established by current legislation.

11.3 Each operator shall provide the user with all the necessary information about its facilities, in accordance with current regulations and within the time limits set out therein, and in particular, the maintenance plans for its facilities that could affect the user shall be provided duly beforehand. Similarly, the technical manager of the system, in accordance with the regulations in force and within the time limits set out therein, will provide users with information on TVB, PVB and AVB.

12. Measurement and reading.

12.1 The measurement of the quantities delivered shall be carried out using the measuring units located at the relevant infrastructures, in accordance with the procedures set out in the technical management of the system regulations and the management manuals of the European international connections.

12.2 Each operator is required to perform quality assurance of the gas at the gas entry point of its facilities. For its part, the user is responsible for ensuring that the natural gas, prior to arrival at the entry points, is subjected to the required quality measurements to ensure compliance with the specifications set out in prevailing regulations.

12.3 The operator is responsible for ensuring that its measuring systems maintain the accuracy required under the technical management of the system regulations.

12.4 The operator and the user shall have access to the measuring equipment installed at the exit points to the end customers they supply and to the signals of these, for the reading of consumption or verification of measuring equipment, regardless of ownership.

Should verification of measuring equipment reveal any malfunction, damage or fraud, and it is necessary to standardise the quantities allocated, this would be carried out pursuant to the provisions set out in prevailing legislation.

12.5 The operator is responsible for the reading and estimated consumption of all meters connected to its facilities at the exit points.

12.6 The readings, whether actual or estimated, shall be made and communicated within the time limits established in prevailing legislation. Gas distribution and balancing shall be carried out in accordance with prevailing legislation.

13. Financial consideration.

13.1 The subject liable to pay tolls, fees and charges shall be the user with access rights who holds the capacity right during the set period, either by acquiring capacity on the primary market or by acquiring capacity on the secondary market.

In the event of non-payment of tolls, fees or charges, the facility operator or technical manager of the system may not demand such payment from the consumer unless the consumer exercises his or her right of access by acting as a direct consumer on the market.

Non-payment of the supply contract signed by the consumer and the shipper does not exempt the latter from its payment obligations arising from the agreement for access to the installations in accordance with the provisions of prevailing regulations.

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13.2 The financial consideration payable by the user to the operator or the technical manager of the system, as appropriate, for the services under the agreement shall be the tolls, fees and charges in force at the time the service is provided plus the premium resulting from each auction, if any.

13.3 In the event that the services covered by the agreement cease to be subject to regulated tolls, the parties shall agree in good faith, within a maximum period of two months, the corresponding financial consideration for such services based on the principles of transparency, non-discrimination and fair remuneration. Until the parties agree such consideration, which shall be deemed to have accrued on the date on which the previous system was repealed, the latest tolls or regulated prices in force shall continue to apply.

14. Guarantees.

14.1 The user must arrange the guarantees for the procurement of services to access gas facilities in the due time and manner set out in prevailing regulations, and must update and replace these, where necessary.

14.2 The provision and management of financial guarantees for the procurement of access and, where appropriate the enforcement of these, shall be executed in accordance with prevailing regulations.

15. Billing and payment.

15.1 Tolls, fees and charges for access services shall be invoiced by the technical manager of the system or by the relevant operator, depending on the type of service, in accordance with prevailing regulations.

15.2 The technical manager of the system or the operator shall, within the first ten (10) days of each month, invoice the user for the amount of the services provided corresponding to the immediately preceding calendar month.

The billing of services to the end consumer may take place within ten days following the reading of the supply and at least monthly or bimonthly billing must be carried out depending on the group of tolls applicable.

15.3 Invoices issued by the technical manager of the system or by the operator shall be paid by the user within ten (10) days from the date when the invoice is issued.

15.4 In the event of any discrepancy with the items or amounts billed by the technical manager of the system or by the operator in its invoice, within the time limit set out in the previous section, the user must provide written or online notification to the manager or operator setting out the reasons for this discrepancy and quantifying the repercussions of each of them, and may request the issue of a partial invoice with the undisputed part of the consideration, paying the technical manager of the system or the operator the undisputed part of the consideration within the time limit required pursuant to the provisions set out in the last paragraph.

The user must deposit the guarantee for the items or amounts in discussion with the guarantees manager until the discrepancy is resolved. Failure to deposit the guarantee shall be considered non-payment of the service.

15.5 Upon receipt of the user's notification of discrepancy, the technical manager of the system or the operator shall reply to the discrepancy within ten (10) days using the same communication channel. The parties shall, within ten (10) days of the user receiving the reply, attempt, in good faith, to reach an agreement.

15.6 Should the parties fail to reach such an agreement, the discrepancy may be submitted by either of them to the dispute resolution mechanism provided for in Clause 25.

15.7 In the event that the resolution of the dispute determines payment or reimbursement of any amount to any party, the payment of interest accrued shall also be payable at the current statutory rate, calculated from the date on which payment should have been made or, if applicable, from the date on which the overpayment was made. Likewise, the guarantees previously withheld as a result of the discrepancy in invoicing shall be released.

15.8 All invoices will be issued through an e-Billing system and will be made available to the user on the date of issue.

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16. Termination of the agreement.

16.1 The agreement may be terminated on the following grounds:

- a) By the parties, based on their mutual, express, written agreement.
- b) Once three months have elapsed from suspension of the services, if the reasons for the suspension have not been resolved.
- c) Due to the voluntary cancellation by the user.
- d) At the discretion of either party, in the event of serious or reiterated breach by the other party of the obligations assumed pursuant to this agreement. In such a case and prior to exercising its right of termination, the party affected by the breach shall request the party in breach to remedy said breach within a deadline of ten days. On expiry of that period, if the non-compliant party has not remedied the breach or at least taken the necessary steps to do so if the full solution requires a longer period, the other party shall be entitled to terminate the agreement.
- e) Due to the grounds for termination established in prevailing legislation.
- f) As the result of a prolonged situation of force majeure or a fortuitous event that persists uninterruptedly for more than three months, as set out in the force majeure clause.
- g) Disqualification of the user from undertaking activity in Spain.

16.2 The termination of the agreement shall not exempt the user from fulfilling all payment obligations arising as a consequence thereof, for the time it has been in force. This must be understood without prejudice to the supply obligations assumed, where appropriate, by said user with respect to its customers. However, if the termination of the agreement was a consequence of reiterated or serious breach by the user of the facility, the user shall be obliged to fulfil all payment obligations associated with the agreement in accordance with the previously agreed duration of the same.

To that end, the payment guarantees required to ensure compliance with the payment obligations shall be retained until the user has met all outstanding obligations.

16.3 In the event of services covering delivery to an end consumer, when the reason for suspension or termination of the agreement is supply cut-off for non-payment by the consumer to the gas supply companies or if the consumer ceases its activity, the process established through prevailing regulations for these cases must be followed, and the provisions set out in the previous points shall not apply.

17. Suspension of the service.

17.1 The operator of the facilities and/or the technical manager of the system may suspend all or part of the access services that are the subject of this agreement, in accordance with the terms set out herein and in the applicable regulations.

17.2 The service may be suspended on the following grounds:

a) Breach of payment obligations by a user not covered by the guarantees provided by said user.

A user shall be deemed to be in breach of payment obligations of tolls, fees or charges for the access services contracted, including any applicable taxes, if, once the payment period has expired, the debt has not been paid and the user has not reported any discrepancy or, having reported such discrepancy, has failed to provide additional guarantee pursuant to the provisions set out in Clause 15.4.

b) Breach of the obligations established in prevailing regulations concerning guarantees for the procurement of access.

c) Cancellation of the balance portfolio at the Virtual Balancing Point, the virtual balancing tank or the virtual balancing storage.

17.3 The suspension of access services may affect all or part of the access services contracted by the user in accordance with the provisions of Article 40 of Circular 8/2019. In addition, limitation in the operation of the balance portfolio may lead to the limitation in the use of the services, in accordance with the provisions of Circular 2/2020 and its implementing regulations.

17.4 The affected user shall be notified of the suspension of the service through the access request and contracting platform managed by the technical manager of the system and this notification shall be made known to all operators.

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17.5 Once the situation has been regularised, and/or the user has made payment of unpaid amounts together with the corresponding interest, as well as any fixed amounts that had accrued during the period of suspension, and the user has guarantees established in the regulations, the operator shall immediately resume the provision of contracted services, and said resumption shall be effective from the next gas day following notification of re-establishment.

18. Effects of suspension of the service.

18.1 The suspension of the service shall cause effects from the time of notification of this to the user via the trading platform, except for access services already contracted for the gas day in progress, for which the suspension shall be effective from the next gas day.

18.2 In the event of partial suspension of the access services contracted by a user, the user shall be unable to enter nomination or re-nomination operations of gas on the same date or later date as that of service suspension or perform any additional procurement of capacity related to the access services that present non-payment.

18.3 In the event of total suspension of the access services contracted by a user:

i. The user shall be unable to perform any additional procurement of capacity, including the service of exit of the Virtual Balancing Point to end consumers.

ii. The user shall be unable to carry out operations to transfer ownership of gas or LNG to other users on the same date or later date as that of service suspension.

iii. The user shall be unable to enter nomination or re-nomination operations of gas on the same date or later date as that of service suspension.

18.4 The partial or total suspension of the access services shall not exempt the user from fulfilling all the payment obligations that derive from each access service, pursuant to the total duration contracted, as well as any others that may accrue pursuant to applicable regulations.

18.5 The non-payment of tolls, fees or charges by a shipper may determine the transfer of its customers to a shipper of last resort under the terms of Article 82 of Law 34/1998, of 7 October.

18.6 The aforementioned measures shall be applied without prejudice to the penalties applicable under Law 34/1998, of 7 October, and its implementing regulations.

19. Force majeure and fortuitous event.

19.1 None of the parties shall be liable to the others for breach of their contractual obligations if this is as a consequence of force majeure or a fortuitous event, pursuant to the provisions of Article 1105 of the Civil Code.

19.2 The party affected by a situation of force majeure or a fortuitous event shall inform the other party in writing as soon as possible, describing the event that has caused the situation of force majeure or the fortuitous event, its nature, the circumstances in which it took place, the time that this situation is expected to last and the steps it intends to take to reduce the effects of the event on the obligations set out in this agreement, if possible.

19.3 Each party shall carry out its best endeavours to avoid or to mitigate the effects of a situation of force majeure or a fortuitous event, and to ensure the normal continuation of this agreement.

19.4 In the event that a situation of force majeure or a fortuitous event affecting all of the obligations of one of the parties with regard to this agreement, or a major part of its obligations, lasts uninterruptedly for more than three months, the party not affected by this situation of force majeure or fortuitous event may, with one month's notice, terminate this agreement by serving written notice. Where appropriate, the termination shall not exonerate the parties from fulfilling the obligations that arose prior to the situation of force majeure or fortuitous event.

20. Calculation of periods. The periods indicated in the agreement shall be calculated in accordance with the provisions of Law 39/2015, of 1 October, with the exception of "gas day" as defined in Circular 2/2020, of 9 January, establishing the natural gas balance standards.

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21. Confidentiality. The parties hereby undertake to keep secret all information of a confidential nature placed at their disposal. Such information shall not be revealed by either party to a third party without prior written consent of the other party, for a period of two years from termination of the agreement. The above is understood without prejudice to that set out in prevailing regulations regarding the sending of information to administrative and judicial authorities and in particular, to the Ministry for Ecological Transition and Demographic Challenge, to the Agency for the Cooperation of European Regulators, to the European Commission, to authorities of other Member States of the European Union, within the scope of its competencies, and to the National Commission on Markets and Competition.

22. Protection of personal data.

22.1 Personal data obtained by the parties during the performance of this agreement shall be that data strictly necessary for performance of the same and may only be applied or used to fulfil the purpose of the agreement. Such data shall not be transferred or handed to third parties under any title, not even for custody purposes.

22.2 The parties may exercise their rights of access, rectification, cancellation and objection in accordance with the provisions set out in current regulations on the protection of personal data. The parties shall take all the necessary technical and organisational measures, and in particular those set out in Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016, regarding the protection of data of physical individuals in so far as the processing of personal data and the free circulation of these data are concerned and repealing Directive 95/46/EC (General Data Protection Regulation) and by Organic Law 3/2018, of 5 December, on the Personal Data Protection and guarantee of digital rights, in order to ensure the security of personal data and prevent such data from being altered, lost, processed or accessed without authorisation, in view of the state of technology, the nature of the data provided and the risks to which it is exposed, whether due to human action or the physical or natural environment.

23. Good faith. The parties agree to act at all times in accordance with the principle of good faith in relation to the implementation, interpretation, performance and termination

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of this agreement, and to make every reasonable effort to permit its successful outcome and to defend their respective interests.

24. Applicable law. This entire agreement shall be governed and construed in accordance with Spanish law and the relevant provisions of European Union law.

25. Resolution of discrepancies.

25.1 The National Commission on Markets and Competition is responsible for settling any disputes that could arise within the scope of this agreement, pursuant to Article 12.1.b) of Law 3/2013, of 4 June, on the creation of the National Commission on Markets and Competition.

25.2 Any controversies, disagreements, complaints and differences that may arise with regard to the performance, interpretation or termination of this agreement, relating to matters of free disposition expressed in Clauses 10, 13.3, 15, 16 and 19 of this agreement, may be submitted to the arbitration of the National Commission on Markets and Competition pursuant to the provisions set out in Article 5.1.b of Law 3/2013, of 4 June, on the creation of the National Commission on Markets and Competition.

25.3 The arbitration procedure shall be carried out in the Spanish language.

25.4 The arbitration process shall take place in the city in which the National Commission on Markets and Competition is based.

25.5 The arbitration award handed down by the National Commission on Markets and Competition shall be final and binding upon the parties. In this respect, both parties agree to accept and comply in full with the content of the decision that is issued.

25.6 All matters not provided for in this clause shall be governed by the terms of Law 3/2013, of 4 June, on the creation of the National Commission on Markets and Competition and Royal Decree 657/2013, of 30 August, approving the Organic Statute of the National Commission on Markets and Competition, and in addition, by the provisions of Law 60/2003, of 23 December, on Arbitration.

25.7 For any incidents related to the arbitration process that require judicial intervention, the parties agree to submit to the jurisdiction of the Courts of Madrid.

26. Assignment.

26.1 Capacity assignments shall be formalised through the relevant trading platform and shall be adapted to the regime established in current regulations.

26.2 The capacity of international gas pipeline connections with Europe awarded in the process of an auction to the same user for the same amount and duration on both sides of the border may be transferred to another only if the capacity transfer operation is carried out in a coordinated manner on both sides of the interconnection.

27. Communications. All communications shall be made as indicated in the document of adhesion to this agreement signed by the parties.

28. Language. The framework agreement and the document of adhesion to the framework agreement shall be drafted in Spanish. Nonetheless, the technical manager of the system shall keep an English version of the foregoing documents posted and updated on its website. In the event of any discrepancy, the Spanish version shall take priority as the legally binding version, with the English version being provided for informational purposes.

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APPENDIX II

Document of adhesion to the framework agreement for access to Spanish gas system facilities

In Madrid, [ddmmyyyy]

BY AND BETWEEN

Party of the first part, Enagás GTS, S.A.U., the technical manager of the gas system (hereafter, the “technical manager of the system”), with registered office at Paseo de los Olmos, 19, 28005 Madrid and holder of Corporate Tax Code A-86484292, filed with the Mercantile Registry of Madrid, in volume 30118, folio 1, section 8, sheet M-542142, represented here by [] pursuant to the power of attorney executed before the notary public of [place], [name of notary public] on [date], under his record number [].

And party of the second part, the subject of the gas system (as user/operator of infrastructures(1)) [], with registered address

at [], folio [], sheet [], represented here by
[], as substantiated through a deed

executed in before the notary public of [place], [name of notary public],
on [date], under his record number [].

(1) Complete as appropriate: operators/managers of regasification plants, operators/managers of underground storage facilities, operators/managers of transmission networks, operators/managers of facilities of international gas pipeline connections with Europe, gas distributors, shipper, direct consumer.

DO HEREBY DECLARE

In accordance with Article 4 of CNMC Circular 8/2019, of 12 July, in order to participate in capacity allocation procedures, subjects with access rights must have previously signed, through the capacity request and contracting platform managed by the technical manager of the system, the framework access agreement in force. Therefore, in accordance with clause three of the framework agreement approved by Resolution of the National Commission on Markets and Competition on [date], the technical manager of the system and the operator or user have decided to sign this document of adhesion to the aforementioned framework agreement, in accordance with the following

CLAUSES

1. Purpose. The purpose of this document is to enable the subject of the gas system to adhere to the framework agreement to access the gas system facilities, and the acceptance thereof by the technical manager of the system. Adhesion to the framework agreement shall be effective between all parties that have adhered to it. The signing of the document of adhesion will also have the effects provided for in section five of Circular 3/2017, as regards the signing of a framework agreement with the interconnection operator on the Spanish side.

2. Framework agreement acceptance and adhesion. The subject of the gas system hereby declares that it is aware of and freely, unconditionally and irrevocably accepts the terms and conditions established in the framework agreement for access to the facilities of the gas system, approved by CNMC Resolution of 15 April 2020, and that it undertakes to comply with these unreservedly and unconditionally and with no restrictions.

In particular, and without prejudice to any other obligations that could correspond to the subject of the gas system pursuant to the provisions set out in applicable regulations, the subject of the gas system declares that it is aware of and agrees to fulfil the clauses set out in the framework agreement, the obligations established regarding the guarantees, the settlement, billing, collection and payment processes of items related to the procurement of access, as well as the respective administrative and tax obligations as a consequence of contracting capacity.

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The infrastructures operator cannot set additional conditions to access or require the inclusion of additional clauses that are not covered by standardised templates.

Also, the subject of the gas system hereby declares its willingness to abide by all provisions of prevailing legislation governing the procurement of access, as well as any future modification which may be made in the regulation of the framework agreement.

By signing this document, the technical manager of the system expressly accepts the adhesion of the subject of the gas system to the foregoing framework agreement.

In the event of any discrepancy between the provisions of the framework agreement and current legislation, the latter shall prevail.

3. Access contracting platforms. Access services shall be contracted through the online capacity contracting platforms referred to in CNMC Circular 8/2019 and CNMC Circular 3/2017, and in accordance with the applicable capacity allocation and contracting procedures, in accordance with the regulations in force, including, where applicable, implicit capacity allocation processes.

Facility operators must offer their available capacity on this platform and recognise the capacity rights contracted via the same.

Each request for acquisition of capacity entered shall be subject to the procedures for validating guarantees set out in prevailing regulations, and shall represent a binding commitment for the parties to purchase the product in question.

Procurement resulting in addenda to the framework agreement shall be concluded at the time of appeal in cases where capacity allocation is performed through auction procedures, or capacity allocation in the remaining procedures. The agreements concluded shall be final and binding upon the parties, throughout the contracted period, and they must pay the operator of the contracted capacity all the tolls, fees and charges that apply in accordance with current regulations, even in the case of non-utilisation of capacity.

4. Communications. Communications between the parties relating to the agreement shall be notified through the online trading platform referred to in CNMC Circular 8/2019 and CNMC Circular 3/2017, which shall permit the electronic signature, and in accordance with the provisions of the current regulations applicable.

In exceptional cases and on justified grounds, communications between the parties shall be given by other means and shall be deemed duly issued if it can be proved they were sent in person or by post, fax, registered fax or email to the following addresses:

Enagás GTS, S.A.U.
Paseo de los Olmos, 19.
28005 Madrid (Spain)

For the attention of:

Email:.....

..... (subject of the gas system)

..... (address)

For the attention of:

Email:.....

Any change to the above details shall be notified to the other party in writing and immediately, in the manner set out herein.

In Madrid, [ddmmyyyy]