

# SCHEDULE 1 CONFIRMATION

## INTERCONNECTOR CAPACITY SUB-LET TERMS AND CONDITIONS

### VERSION 1.0

*These Terms and Conditions shall apply to the sub-letting of Capacity Rights from an Interconnector Shipper to a third party who is not an I(UK) Shipper pursuant to Articles 18(B), (C), (D) and (E)*

#### 1. DEFINITIONS AND INTERPRETATION

1.1 The words and expressions defined (expressly or by reference) in the Sub-Lessee ISTA shall have the same meaning when used in these Terms and Conditions (unless the word or expression is expressly defined in these Terms and Conditions). Where in any applicable Sub-Lessee ISTA definition there is a reference to "this Agreement", those words shall be deemed to be replaced by the words "these Terms and Conditions".

1.2 Except where the context otherwise requires, the following words and expressions, where they appear in these Terms and Conditions or a Confirmation (where applicable) shall have the meanings respectively ascribed to them:

**"Capacity Charge"** shall mean the sum (in pence per Nm<sup>3</sup> or such other currency as the Parties may agree) agreed to be payable for Forward Flow Capacity Rights and/or Reverse Flow Capacity Rights (as applicable) in accordance with a Transaction for Sub-Let Capacity.

**"Combined Standard Transportation Agreements"** shall mean the Sub-Lessee ISTA, the Sub-Lessee Override Agreement, the Sub-Lessee Standard Direct Access Agreement as each such agreement may be supplemented, amended and restated from time to time provided that where some, or all, of its provisions are not yet in force or have ceased to be in force, a reference to any such agreement shall be to such provisions as are, at the relevant time, in force.

**"Confirmation"** shall mean a document incorporating these Terms and Conditions by reference and confirming the details of a Transaction which shall be substantially in the form set out in Schedule 1.

**"Defaulting Party"** shall have the meaning given to it in Clause 13.1.

**"Due Date"** shall have the meaning ascribed to it in Clause 6.2.

**"Early Termination Payment"** shall have the meaning ascribed to it in Clause 13.6.

**"Index"** shall mean the index published by Petroleum Argus Limited in Petroleum Argus European Natural Gas or, where such index ceases to be available for the purposes of calculating the Pipeline Inventory Price, the index published by The McGraw Hill Companies in Platts European Natural Gas Report or such other index as the Parties may agree in respect of a Transaction.

**"ISTA"** shall mean the standard form of transportation agreement entered into by Interconnector and each I(UK) Shipper for the transportation of Natural Gas in the Transportation System as amended, supplemented and restated from time to time.

**"ISIS User Agreement"** shall mean the standard form of agreement published by Interconnector setting out the terms and conditions for access to ISIS.

**"Monthly Invoice Amount"** shall have the meaning ascribed to it in Clause 6.1.

**"Monthly Statement"** shall have the meaning ascribed to it in Clause 6.1.

**“Monthly Sub-Let Charge”** shall mean the charge payable in respect of the Sub-Let Capacity calculated in accordance with Clause 5.1(a) and/or (b).

**“NBP Price”** shall mean the mid-point between the NBP bid price and the NBP offer price published in the Index on the last day of the Sub-Let Period in respect of the next Business Day.

**“Non-Defaulting Party”** shall have the meaning given to it in Clause 13.1.

**“Office Hours”** shall mean between 09:00 hours and 17:00 hours (UK time) on any Business Day.

**“Party”** shall mean either the Sub-Lessor or the Sub-Lessee and **“Parties”** shall be construed accordingly.

**“Pipeline Inventory Price”** shall mean the arithmetic average of the NBP Price and the Zeebrugge Hub Price.

**“Sub-Lessee”** shall mean the Party to whom the Sub-Lessor is sub-letting its Capacity Rights (in whole or in part) pursuant to the terms of a Transaction.

**“Sub-Lessee ISTA”** shall mean the terms of the ISTA which the Sub-Lessor is entitled to make available to the Sub-Lessee pursuant to Article 13.3(c).

**“Sub-Lessee Override Agreement”** shall mean the terms of the Override Agreement which the Sub-Lessor is entitled to make available to the Sub-Lessee.

**“Sub-Lessee Standard Direct Access Agreement”** shall mean the terms of the Standard Direct Access Agreement which the Sub-Lessor is entitled to make available to the Sub-Lessee.

**“Sub-Lessee Supplemental Direct Access Agreement”** shall mean the terms of the Supplemental Direct Access Agreement which the Sub-Lessor is entitled to make available to the Sub-Lessor.

**“Sub-Lessor”** shall mean the Party sub-letting its Capacity Rights (in whole or in part) to the Sub-Lessee pursuant to the terms of a Transaction.

**“Sub-Let Capacity”** shall mean the amount of Forward Flow Capacity Rights and/or Reverse Flow Capacity Rights (as applicable) (expressed in Nm<sup>3</sup>/h) which the Sub-Lessor agrees to sub-let to the Sub-Lessee under a Transaction.

**“Sub-Let Period”** shall mean the duration of a Sub-Letting agreed pursuant to a Transaction as such period may be adjusted by termination in accordance with these Terms and Conditions or pursuant to the provisions of Article 18(C)(d)(iii) or (iv).

**“Terms and Conditions”** means the terms and conditions set out herein together with the Schedules, as the same may be amended from time to time.

**“Transaction”** shall mean an oral or written agreement for a Sub-Letting which agreement incorporates these Terms and Conditions by reference and includes, inter alia, details of the Parties, the Sub-Let Period, the Sub-Let Capacity (expressed in Nm<sup>3</sup>/h) and the Capacity Charge.

**“Wilful Default”** shall mean, in relation to a Party, a wilful, intentional and conscious act or omission by an officer, director or employee, acting in a management or supervisory capacity, of a Party which constitutes (and which the relevant officer, director or employee knows it constitutes) a breach of any material obligation of that Party under a Transaction but shall exclude a breach or

disregard of any obligation resulting from an error of judgement or mistake or omission arising in good faith or from negligence.

**“Zeebrugge Hub Price”** shall mean the mid-point between the Zeebrugge bid price and the Zeebrugge offer price published in the Index on the last day of the Sub-Let Period in respect of the next Business Day.

- 1.3 Unless the context otherwise requires and to the extent applicable, the rules of interpretation set out in Articles 1.4 and 1.5 shall apply, mutatis mutandis, to these Terms and Conditions.
- 1.4 References to Clauses and to Schedules are references to the Clauses of, and the Schedules to, these Terms and Conditions and references to Articles and to Appendices are to the Articles of and Appendices to the Sub-Lessee ISTA.
- 1.5 In the event of any conflict between these Terms and Conditions and the terms of the Combined Standard Transportation Agreements, then the terms of the Combined Standard Transportation Agreements shall prevail.

## **2. TRANSACTION**

By entering into a Transaction the Sub-Lessor agrees to sub-let to the Sub-Lessee and the Sub-Lessee agrees to sub-let from the Sub-Lessor the Sub-Let Capacity during the Sub-Let Period in consideration for the payment of the Capacity Charge and (if applicable) the Transaction Charge by the Sub-Lessee to the Sub-Lessor, all subject to and in accordance with these Terms and Conditions, the terms of the Confirmation (where applicable), the terms of the Combined Standard Transportation Agreements and in particular the provisions of Article 18(B), (C), (D) and (E).

## **3. CONFIRMATION PROCEDURE**

- 3.1 The Sub-Lessor shall, as soon as reasonably practicable but in any event within three (3) Business Days of a Transaction being entered into, send by facsimile transmission to the Sub-Lessee a signed Confirmation recording the details of such Transaction.
- 3.2 If the Confirmation accurately reflects the terms of the applicable Transaction, the Sub-Lessee shall sign and return the Confirmation by facsimile transmission to the Sub-Lessor as soon as reasonably practicable but in any event no later than three (3) Business Days after receipt of the signed Confirmation.
- 3.3 If the Confirmation does not accurately reflect the terms of the applicable Transaction, the Sub-Lessee shall inform the Sub-Lessor of any inaccuracies as soon as reasonably practicable but in any event no later than three (3) Business Days after receipt of the signed Confirmation. The Sub-Lessor shall, if it agrees that the Confirmation is inaccurate, issue a new Confirmation and the provisions of Clauses 3.1 and 3.2 shall apply.
- 3.4 If the Sub-Lessee does not return the Confirmation, duly signed, in accordance with Clause 3.2, or does not notify the Sub-Lessor of any inaccuracy in accordance with Clause 3.3, the Sub-Lessee shall be deemed to accept the Confirmation.
- 3.5 If the Sub-Lessee has not received a Confirmation from the Sub-Lessor within three (3) Business Days of a Transaction being entered into, the Sub-Lessee shall send the Sub-Lessor a Confirmation, and Clauses 3.2, 3.3 and 3.4 shall apply mutatis mutandis in relation to such Confirmation by replacing in such Clauses all references to "Sub-Lessee" with "Sub-Lessor" and "Sub-Lessor" with "Sub-Lessee".
- 3.6 Failure by either Party to send or return a Confirmation shall not:
  - (a) affect the validity or enforceability of any Transaction; or

(b) be a material breach of a Transaction under Clause 13.2.1.

However, notwithstanding the foregoing, the Parties agree that in respect of each Transaction they shall use their reasonable endeavours to agree and execute Confirmations by no later than two (2) hours before the latest time for submitting a Notice of Sub-Letting to Interconnector in respect of a Transaction as specified in Article 18(B).1.

3.7 The Parties consent to the recording of all telephone conversations between the Parties in respect of each Transaction. Each Party agrees to notify its relevant employees of that consent and obtain their consent to that recording if required by law.

3.8 Subject to clause 3.4, on signature by both parties, the Confirmation shall, save in the event of manifest error, prevail over any oral or written agreement in respect of the Transaction.

#### **4. NOTICE OF SUB-LETTING & USE OF THE SUB-LET CAPACITY**

4.1 In respect of each Transaction, the Parties shall each (or if the Parties elect, jointly) submit a Notice of Sub-Letting to Interconnector, which shall be in the form set out in Schedule 2.

4.2 Where Interconnector advises that the proposed sub-let does not comply with Article 18(B) and accordingly is invalid, but nevertheless there remains sufficient time for each Party to submit another Notice of Sub-Letting in accordance with the time limit specified in Article 18(B).1, then each Party shall use its reasonable endeavours to submit a new Notice of Sub-Letting to Interconnector in accordance with Article 18(B).1.

4.3 Subject to Clause 4.4 and Clause 10, failure by a Party to submit a Notice of Sub-Letting (which accurately records the terms of the relevant Transaction in accordance with Clause 4.1) within the time period specified in Article 18(B).1 (excluding such failure which is subsequently remedied by the submission of new Notices of Sub-Letting pursuant to Clause 4.2) shall constitute a material breach of the Transaction by the Defaulting Party who shall, subject to Clause 13.8, be liable to pay the Early Termination Payment to the Non-Defaulting Party.

4.4 In the event that both Parties fail to submit accurate Notices of Sub-Letting within the time period specified in Article 18(B).1, neither Party shall be liable to pay to the other the Early Termination Payment or any other sum or damages in respect of its breach of this Clause 4.

4.5 A Notice of Sub-Letting once submitted by a Party (or jointly by the Parties) pursuant to Clause 4.1 may not be revoked or varied by that Party (or either Party).

4.6 The Sub-Lessee shall, prior to the commencement of the Sub-Let Period, enter into all necessary arrangements with Interconnector in order to secure access to ISIS for the purpose of the sub-letting pursuant to Articles 18(B), 18(C), 18(D) and 18(E) of the ISTA, including, without limitation, signing the ISIS User Agreement.

4.7 Subject to the provisions of sub-paragraphs (a) to (c) inclusive of Article 18(B).4, in the event of termination of the Sub-Letting, access to ISIS by the Sub-Lessee shall terminate forthwith.

4.8 The Sub-Lessee undertakes to the Sub-Lessor that it shall perform all of the obligations of the Sub-Lessor and discharge all of the liabilities of the Sub-Lessor in accordance with Article 18(B).5 (a) relating to or arising in connection with Sub-Let Capacity under each Sub-Letting.

4.9 Further, in accordance with paragraph (b) of Article 18(B).5, the Sub-Lessee confirms that it will comply with all requirements of Interconnector in force from time to time.

## 5. CAPACITY CHARGE, SHIPPER REBATES & OTHER CHARGES

5.1 Subject to Clause 5.2, the Sub-Lessee shall, whether or not the Sub-Let Capacity is utilised or capable of being utilised (whether utilisation is affected by maintenance, constraint, capping of nominations by Interconnector or otherwise), pay to the Sub-Lessor in respect of each Transaction:

- (a) a charge in respect of the Sub-Let Capacity which is Forward Flow Capacity Rights for each Month which is wholly or partly in the Sub-Let Period calculated as follows:

$$FFMC = (TCff \times CCff) \times H$$

where:

- FFMC = the charge for Forward Flow Capacity Rights in respect of each Month;  
TCff = the Sub-Let Capacity which is Forward Flow Capacity Rights;  
CCff = the Capacity Charge for the Forward Flow Capacity Rights;  
H = the number of hours in the Month forming part of the Sub-Let Period;  
and/or

- (b) a charge in respect of the Sub-Let Capacity which is Reverse Flow Capacity Rights for each Month which is wholly or partly in the Sub-Let Period calculated as follows:

$$RFMC = (TCrf \times CCrf) \times H$$

where:

- RFMC = the charge for Reverse Flow Capacity Rights in respect of each Month;  
TCrf = the Sub-Let Capacity which is Reverse Flow Capacity Rights;  
CCrf = the Capacity Charge for the Reverse Flow Capacity Rights;  
H = the number of hours in the Month forming part of the Sub-Let Period;  
and

- (c) any Transaction Charge which is payable by the Sub-Lessor to Interconnector in respect of:

- (i) the Sub-Letting to which any Transaction relates; or  
(ii) any Inventory Transfer of Sub-Let Capacity to which a Transaction relates which is not paid by the Sub-Lessee to Interconnector in accordance with Clause 5.3 (c).

5.2 If the Monthly Capacity Charge paid by the Sub-Lessor in accordance with Article 6 for any Month in the Sub-Let Period is reduced in accordance with Article 11.5 in relation to Force Majeure or by a Lost Capacity Reduction in accordance with Article 3.5 or in accordance with Article 7.2 (3):

- (a) the Monthly Sub-Let Charge payable by the Sub-Lessee for the Sub-Let Capacity in respect of such Month shall be reduced pro-rata to the reduction in such Monthly Capacity Charge; and
  - (b) the Sub-Lessor shall notify the Sub-Lessee in writing and provide the Sub-Lessee with such information or data as may be reasonably necessary (and which the Sub-Lessor is entitled to provide) to verify the reduction in such Monthly Sub-Let Charge.
- 5.3 The Sub-Lessee undertakes to the Sub-Lessor in relation to each Transaction to:
- (a) reimburse Interconnector in the terms of Article 18(B).2 (d)<sup>1</sup> and to comply with its obligation to do so as that obligation is set out in the Notice of Sub-Letting;
  - (b) pay Interconnector in the terms of Article 18(B).2 (f)<sup>2</sup> and to comply with its obligation to do so as that obligation is set out in the Notice of Sub-Letting;
  - (c) pay Interconnector any Transaction Charge which is payable in relation to any Inventory Transfer where the Sub-Lessee is the Inventory Transferor.

## 6. PAYMENT

- 6.1 On or before the tenth (10<sup>th</sup>) day of the Month following each Month which is wholly or partly in the Sub-Let Period, the Sub-Lessor shall send to the Sub-Lessee in respect of each Transaction a statement (the "Monthly Statement") setting out the following in respect of such Month:
- 6.1.1 the Monthly Sub-Let Charge;
  - 6.1.2 any Transaction Charge payable in accordance with Clause 5.1(c);
  - 6.1.3 any amounts due pursuant to Clause 8;
  - 6.1.4 in respect of the last Monthly Statement for a Transaction, any sums due (if any) pursuant to Clause 7;
  - 6.1.5 the net amount payable from one Party to the other taking into account all matters set out in sub-clauses 6.1.1 to 6.1.4 above; and
  - 6.1.6 all applicable taxes, including VAT payable under these Terms and Conditions
- (the "Monthly Invoice Amount").
- 6.2 On or before the twentieth (20<sup>th</sup>) day of the Month in which a Monthly Statement is received by the Sub-Lessee or on or before the tenth (10<sup>th</sup>) day after receipt, whichever is the later (the "Due Date"), the Sub-Lessee or the Sub-Lessor (as the case may be) shall pay to the other Party to whom it is due the Monthly Invoice Amount set out in the Monthly Statement.
- 6.3 All payments shall be made in pounds sterling (or such other currency as may be agreed between the Parties) and shall be credited in full by the Due Date to the bank account specified by the Sub-Lessee or the Sub-Lessor (as the case may be). If the Due Date is not a Business Day, then payment shall be made no later than the Business Day prior to the Due Date.
- 6.4 If a Party, acting in a bona fide manner, disputes a Monthly Invoice Amount, it shall make payment of any undisputed parts of such Monthly Invoice Amount and give notice of the amount in dispute and the reasons therefor to the other Party on or before the Due Date. The Parties shall seek to resolve any dispute as to such amount as soon as possible. Any amount which is subsequently determined to be due and owing shall bear interest for the period starting from and

---

<sup>1</sup> Explanatory note - Article 18(B).2 (d) sets out certain ISIS access costs and expenses payable by the Sub-Lessee to Interconnector

<sup>2</sup> Explanatory note - Article 18(B).2 (f) sets out the requirement that the Sub-Lessee pays Interconnector any Monthly Pressure Service Charge, Monthly Electricity Charge or Excess Capacity Charge attributable to the Sub-Let Capacity

including the Due Date to but excluding the date of payment (whether before or after judgement), at a rate equal to LIBOR (3 months) plus two per cent (2%) compounded quarterly.

- 6.5 Except where any sum is the subject of a bona fide dispute pursuant to Clause 6.4 and/or subject to Clause 6.8, if a Party fails to pay the other Party the Monthly Invoice Amount or any part thereof by the Due Date:
- 6.5.1 interest shall accrue and shall be paid on the unpaid amount for the period starting from and including the Due Date and ending on but excluding the actual date of payment, at a rate of interest equal to the aggregate of LIBOR (1 month) plus three per cent (3%) compounded monthly; and
- 6.5.2 the Non-Defaulting Party may terminate the Transaction subject to and in accordance with Clause 13.1.2.
- 6.6 Any Monthly Invoice Amount not disputed within twelve (12) Months after the Due Date shall be considered as final between the Parties.
- 6.7 The charges under these Terms and Conditions are exclusive of any VAT or taxes, duties or levies of a similar nature. The Sub-Lessor shall be entitled to add to the amount due from the Sub-Lessee VAT and other applicable taxes, duties or levies of a similar nature imposed upon the Sub-Lessor in respect of the charges under these Terms and Conditions by any competent authority (but excluding taxes on income and profit).
- 6.8 An amount equal to VAT payable shall not be required to be paid before the Sub-Lessor provides the Sub-Lessee with an appropriate VAT invoice in relation to that amount.

## **7. PIPELINE INVENTORY**

If, at the cessation of a Sub-Let Period, there is an imbalance between the amount of Pipeline Inventory transferred from:

- (a) the Sub-Lessor's Inventory Account to the Sub-Lessee's Inventory Account at the commencement of the applicable Sub-Let Period pursuant to Articles 18(D).1; and
- (b) the Sub-Lessee's Inventory Account back to the Sub-Lessor's Inventory Account at the cessation of the applicable Sub-Let Period pursuant to Articles 18(D).2 and 18(D).3, then:
- (i) where (a) is greater than (b), the Sub-Lessee; and
- (ii) where (b) is greater than (a), the Sub-Lessor

shall pay to the other Party an amount equal to the difference between (a) and (b) (converted into terms by multiplying by 29.3071) multiplied by the Pipeline Inventory Price.

## **8. INDEMNITIES AND LIABILITIES**

- 8.1 In relation to each Transaction, the Sub-Lessee shall indemnify and hold the Sub-Lessor harmless from any losses, costs, claims, actions and demands (including any claim for negligence, breach of statutory duty or otherwise) which the Sub-Lessor may suffer or incur:
- 8.1.1 as a result of any claim made by Interconnector against the Sub-Lessor as a result of any claims made, actions taken, or omissions by the Sub-Lessee for which the Sub-Lessor is

obliged to indemnify Interconnector (including, without limitation, claims resulting from Natural Gas that does not comply with the relevant quality and operational requirements) and/or pursuant to the indemnity given by the Sub-Lessor to Interconnector in accordance with Clause 10.1.4 of the ISIS User Agreement; and/or

- 8.1.2 as a result of the Sub-Lessee's failure to comply with the confidentiality obligations in Clause 11.
- 8.2 The Sub-Lessor shall, if requested by the Sub-Lessee, make available to the Sub-Lessee before the commencement of the Sub-Let Period, the terms of the Combined Standard Transportation Agreements which the Sub-Lessor is entitled to make available to the Sub-Lessee pursuant to Article 13.3(c) and the Sub-Lessee hereby acknowledges that it has received, or is otherwise already in possession of, a copy of the Combined Standard Transportation Agreements.
- 8.3 The Sub-Lessee acknowledges and agrees that the Sub-Lessor shall have no liability to the Sub-Lessee for any loss which the Sub-Lessee may suffer in respect of the Sub-Let Capacity as a result of any act or omission of Interconnector.
- 8.4 The Sub-Lessee shall prior to the commencement of a Sub-Let Period enter into an ISIS User Agreement if it is not already a party to an ISIS User Agreement. The Sub-Lessee shall remain a party to an ISIS User Agreement for the duration of each Sub-Letting.

## **9. REPRESENTATIONS AND WARRANTIES**

- 9.1 The Sub-Lessor warrants to the Sub-Lessee that in respect of a Transaction it has and will continue to have for each Day during the Sub-Let Period the right to sub-let the Sub-Let Capacity in accordance with the terms of the Combined Standard Transportation Agreements, subject to its rights pursuant to Article 18.
- 9.2 The Sub-Lessor warrants that it is and will continue to be a party to the Combined Standard Transportation Agreements for the duration of each Sub-Let Period, subject to its rights pursuant to Article 18.
- 9.3 Each Party represents and warrants to the other that in respect of a Transaction it has obtained and will maintain at all times during the Sub-Let Period all licences, authorisations, permits, consents and other approvals necessary, if any, to enable it to fulfil its obligations under each Transaction.
- 9.4 Each Party represents and warrants to the other that it is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and has the legal right and full power and authority to execute and deliver, and to exercise its rights and perform its obligations under, each Transaction.
- 9.5 Each Party represents and warrants to the other that all corporate action required by it to authorise the execution and delivery of, and to execute its rights and perform its obligations under, each Transaction has been or will be duly taken.

## **10. FORCE MAJEURE**

- 10.1 The expression "Force Majeure" shall mean any event or circumstance beyond the reasonable control of a Party, acting and having acted as a Reasonable and Prudent Operator which, in respect of a Transaction, prevents:
- 10.1.1 a Notice of Sub-Letting from being submitted to Interconnector; or

- 10.1.2 a Notice of Sub-Letting from being received by Interconnector.
- 10.2 Subject to Clause 10.3, if, in respect of a Transaction, a Party is rendered unable wholly or in part to carry out its obligations pursuant to Clause 4 by reason of Force Majeure, then that Party shall:
  - 10.2.1 be relieved of its obligations under Clause 4 to the extent that it is prevented by Force Majeure from complying with them; and
  - 10.2.2 not be obliged to pay any amounts to the other Party (including under Clause 13.6) in respect of that failure to perform.
- 10.3 The Party claiming Force Majeure shall as soon as reasonably practicable:
  - 10.3.1 advise the other Party in writing of:
    - (a) the event or circumstance constituting Force Majeure, including all available information on the cause of the event; and
    - (b) its estimate of the likely period of that Force Majeure event; and
  - 10.3.2 take all reasonably practicable steps to rectify or overcome the event or circumstance constituting Force Majeure and resume full performance of its obligations.

## **11. CONFIDENTIALITY**

The provisions regarding exchange of information and confidentiality in Article 13 shall be incorporated mutatis mutandis into these Terms and Conditions and shall apply to all Transactions entered into by the Parties and to all and any information acquired or received by either of the Parties from the other under or pursuant to a Transaction.

## **12. ASSIGNMENT**

- 12.1 The Sub-Lessee shall not assign, transfer or otherwise dispose of the whole or part of its rights and/or obligations in respect of the Sub-Let Capacity to a third party.
- 12.2 The Sub-Lessor may assign any of its Capacity Rights in accordance with Article 18. If as a result of any such assignment the Sub-Lessor shall retain Capacity Rights which are less than those comprised in the aggregate of all capacity sub-let by the Sub-Lessor to the Sub-Lessee, the Sub-Lessor shall:
  - 12.2.1 prior to such assignment, procure that the assignee:
    - (i) gives written confirmation to Interconnector that the Sub-Letting is to remain in force; and
    - (ii) requests that Interconnector continues to accept estimates, forecasts and nominations from and to make allocations to and accept and give effect to Inventory Transfer Notices from the Sub-Lessee as though the Notice of Sub-Letting had been given by the assignee pursuant to Article 18(B); and
  - 12.2.2 simultaneously with such assignment, novate to its assignee the Sub-Lessor's rights and obligations in respect of all capacity sub-let by the Sub-Lessor to the Sub-Lessee in accordance with these Terms and Conditions.
- 12.3 The Capacity Sub-Lessee hereby consents to any novation which complies with Clause 12.2.

### 13. TERMINATION

- 13.1 A non-defaulting Party (the "**Non-Defaulting Party**") may terminate a Transaction by giving written notice to the other Party (the "**Defaulting Party**"):
- 13.1.1 if the Defaulting Party is in material breach of any of its obligations under a Transaction and such default is not remedied to the satisfaction of the Non-Defaulting Party within 20 Business Days after notice of the default is given to the Defaulting Party; or
  - 13.1.2 if the Defaulting Party fails to pay any Monthly Invoice Amount by the relevant Due Date (except where any sum is the subject of a bona fide dispute pursuant to Clause 6.4) and such default is not remedied to the satisfaction of the Non-Defaulting Party within 5 Business Days after notice of the default is given to the Defaulting Party.
- 13.2 A Non-Defaulting Party may terminate a Transaction by giving written notice to the Defaulting Party if any of the following occurs in relation to the Defaulting Party:
- 13.2.1 it [makes a general assignment or arrangement for the benefit of its creditors](#);
  - 13.2.2 it becomes insolvent (however evidenced) or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts when they become due;
  - 13.2.3 it files a petition or otherwise commences, authorises or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it and such petition is not withdrawn, dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation of that proceeding or petition;
  - 13.2.4 it has a receiver, liquidator, administrator or administrative receiver appointed over all or substantially all of its assets;
  - 13.2.5 it has a resolution passed for its dissolution or winding up (other than a voluntary winding up for the purposes of solvent amalgamation or reconstruction);
  - 13.2.6 it is dissolved (other than pursuant to a consolidation, amalgamation or merger);
  - 13.2.7 it causes or is subject to the occurrence of any similar or equivalent event with respect to it which, under the applicable laws of any jurisdiction has an analogous effect to any of the events specified in Clauses 13.1.1 to 13.1.6; or
  - 13.2.8 it is in breach of any of the warranties contained in Clause 9 and the breach has a material adverse effect on the Non-Defaulting Party.
- 13.3 Termination of a Transaction (whether under this clause 13 or by virtue of expiration of the Sub-Let Period or otherwise), shall be without prejudice to any rights or obligations which may have accrued to either of the Parties prior to the date of such termination and all provisions of these Terms and Conditions necessary for the full enjoyment of such accrued rights and obligations shall survive such termination for the period so necessary.
- 13.4 The Sub-Lessor shall promptly notify Interconnector in writing of any early termination of a Transaction pursuant to this Clause 13. If a Transaction shall terminate the Sub-Lessee shall immediately cease to utilise the Sub-Let Capacity and access ISIS for the purposes of the Sub-Let Capacity.

13.5 Following termination of a Transaction the Defaulting Party shall pay to the Non-Defaulting Party the Early Termination Payment within five (5) Business Days of notification by the Non-Defaulting Party of the amount of the Early Termination Payment calculated in accordance with Clause 13.6.

13.6 The Early Termination Payment for a Transaction shall be an amount calculated as follows:

13.6.1 where the Defaulting Party is the Sub-Lessee:

$$TP = (((TCff \times CCff) + (TCrf \times CCrf)) \times DP) - MVsor + RC$$

13.6.2 where the Defaulting Party is the Sub-Lessor:

$$TP = MVsee + RC - (((TCff \times CCff) + (TCrf \times CCrf)) \times DP)$$

where:

TP = the Early Termination Payment [provided that this may only be a positive number];

TCff = the Sub-Let Capacity which is Forward Flow Capacity Rights;

CCff = the Capacity Charge for the Forward Flow Capacity Rights;

TCrf = the Sub-Let Capacity which is Reverse Flow Capacity Rights;

CCrf = the Capacity Charge for the Reverse Flow Capacity Rights;

DP = the number of hours from and including the date and time of termination to the date which would have been the last day of the Sub-Let Period if the Transaction had not terminated;

RC = the reasonable legal costs which the Non-Defaulting Party has incurred in connection with the termination;

MVsee = the Sub-Lessee's bona fide determination, having made reasonable enquiries of at least three independent third parties, of what are the best terms reasonably obtainable for a Sub-Letting of quantity of capacity equal to or similar to the Sub-Let Capacity and for a period of time equal to or similar to what would have been the remainder of the Sub-Let Period had the Transaction not terminated.

MVsor = the Sub-Lessor's bona fide determination, having made reasonable enquiries of at least three independent third parties, of what are the best terms reasonably obtainable for a Sub-Letting of a quantity of capacity equal to or similar to the Sub-Let Capacity and for a period of time equal to or similar to what would have been the remainder of the Sub-Let Period had the Transaction not terminated;

provided that:

(a) the Early Termination Payment shall be adjusted to take account of:

(i) any sums due pursuant to Clause 7 or Clause 8;

(ii) any part of a Monthly Sub-Let Charge that has accrued but is unpaid, or has been pre-paid at the date and time of termination which shall be calculated by dividing the Monthly Sub-Let Charge by the number of hours in the relevant Month,

(b) nothing shall oblige the Non-Defaulting Party to enter into a replacement Sub-Letting.

13.7 If the Defaulting Party fails to pay the Early Termination Payment to the Non-Defaulting Party in accordance with Clause 13.5, then interest will accrue at the rate specified in Clause 6.5.1 from and including the due date of payment until but excluding the actual date of payment.

13.8 Save and except in the event of Wilful Default by the Defaulting Party, payment by the Defaulting Party of the Early Termination Payment in accordance with the provisions of this Clause 13 shall be in full and final satisfaction of all or any rights of the Non-Defaulting Party and the sole remedy available to the Non-Defaulting Party in respect of an early termination of the Transaction howsoever caused and even where caused by the negligence or breach of duty of the Defaulting Party. Each Party acknowledges that the Early Termination Payment is reasonable in light of the anticipated harm and the difficulty of estimating or calculating actual damages. Each Party waives the right to contest the Early Termination Payment as an unreasonable penalty or otherwise.

#### **14. LIABILITIES**

Save to the extent included in any payment due pursuant to Clause 8 or an Early Termination Payment, neither Party shall be liable to the other Party for any Consequential Losses howsoever arising (whether in contract or in tort, including negligence or otherwise) out of a Transaction.

#### **15. WAIVER**

No waiver by either Party of any breach by the other in respect of a Transaction shall operate unless expressly made in writing and any such waiver shall not be construed as a waiver of any other breach.

#### **16. VARIATION**

The Sub-Lessee agrees that these terms and conditions may be amended by the Sub-Lessor, from time to time, in a manner consistent with or to reflect any changes made to the Standard Combined Transportation Agreements.

#### **17. ENTIRE AGREEMENT**

These Terms and Conditions, together with the relevant Confirmation (where applicable), contain the whole agreement of the Parties in respect of a Transaction and supersede and replace any prior written or oral agreements, representations or understandings between them in respect of such Transaction. The Sub-Lessee confirms that it has not been induced to enter into a Transaction on the basis of any representation, warranty or undertaking that is not expressly incorporated into these Terms and Conditions or the relevant Confirmation. Without limiting the generality of the foregoing and to the extent permitted by law, each Party agrees that its only remedy in relation to any representation, warranty or undertaking made or given in connection with the Transaction shall be for breach of contract, provided that nothing in this Clause 17 shall limit or exclude any liability for any fraudulent statement or act.

#### **18. SEVERABILITY**

If any provision or part of a provision of a Transaction is found by a court or authority of competent jurisdiction to be void or unenforceable, that provision or part of a provision shall be deemed to be deleted from the Transaction and the remaining provisions shall continue in full force and effect.

The Parties shall in such event negotiate in good faith and seek to agree upon a valid and enforceable provision or part of a provision to replace the provision or part of a provision found to be void and unenforceable.

## **19. NOTICES**

19.1 Any notice or other communication to be given or made in respect of a Transaction by one Party to the other shall be given or made in writing to the other at the registered address, or such other address as that Party shall notify in writing to the other from time to time. The facsimile number for each Party in respect of a Transaction for the purposes of facsimile transmission shall be as stated in the Confirmation, unless otherwise notified by that Party.

19.2 Notice shall be deemed to have been received:

19.2.1 if delivered by hand, at the time of delivery on a Business Day or at 09:00 hours on the first Business Day following the date of delivery if delivered on a day other than a Business Day or outside Office Hours;

19.2.2 if sent by registered post, at 09:00 hours on the third Business Day after the day of posting;

19.2.3 in the case of a facsimile transmission, at the time of transmission if that day is a Business Day or at 09:00 hours on the first Business Day after transmission if that day is not a Business Day or if transmission took place outside Office Hours and provided that a valid transmission report confirming good receipt is generated. Where a notice is sent by facsimile, the Party giving the notice shall (but without prejudice to this Clause 19.2.3), if so requested by the other Party, resend the notice as soon as reasonably practicable by post.

19.3 All notices and other communications which are required to be given or made by either Party to Interconnector shall be given or made electronically on ISIS or by such alternative means specified by Interconnector.

19.4 The Parties may also agree upon using other forms of communications than those specified above.

## **20. THIRD PARTY RIGHTS**

A person who is not a party to a Transaction shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Transaction notwithstanding that any such term may be construed as conferring a benefit on such person.

## **21. DELEGATION OF OBLIGATIONS**

Each Party shall be entitled to discharge any of its obligations in respect of a Transaction by procuring that such obligations are performed on its behalf by a third party but such Party shall remain responsible to the other for the due performance of such obligations and for any failure or non-performance of such third party as if such Party itself had failed to fulfil the relevant obligations.

## **22. APPLICABLE LAW**

Each Transaction shall be governed by and construed in accordance with English law and the Parties shall submit to the exclusive jurisdiction of the English courts for the purposes of any dispute under or in connection with a Transaction.

## SCHEDULE 1 CONFIRMATION

<b>INSTRUCTIONS FOR USE</b>	
<b>SUB-LESSOR</b>	<ol style="list-style-type: none"> <li>1. Complete all relevant details below as appropriate.</li> <li>2. Sign the Confirmation.</li> <li>3. Send the Confirmation to the Sub-Lessee by fax within 3 Business Days of the Transaction.</li> </ol>
<b>SUB-LESSEE</b>	<ol style="list-style-type: none"> <li>1. On receipt of a Confirmation, check the details. If correct sign and return to the Sub-Lessor by fax within 3 Business Days of receipt of the Confirmation. Refer any inaccuracies to the Sub-Lessor immediately.</li> <li>2. If you do not sign and return the Confirmation within 3 Business Days of receipt, you will be deemed to accept its terms.</li> <li>3. If you do not receive a Confirmation within 3 Business Days of the Transaction, complete the details and send the Sub-Lessor the Confirmation.</li> </ol>

The **SUB-LESSOR** and the **SUB-LESSEE** named below hereby agree that this Confirmation confirms the details of an agreement for a Sub-Letting of capacity in the UK-Continent Interconnector in accordance with the "Interconnector Capacity Sub-Let terms and conditions Version 1.0" published on Interconnector's website.

<b>SUB-LESSOR :</b>	
<b>PHONE:</b>	<b>FAX:</b>
<b>SUB-LESSEE:</b>	
<b>PHONE:</b>	<b>FAX:</b>
<b>SUB-LET PERIOD:</b>	
<b>Start Date</b>	<b>End Date</b>
(and time if not 06:00 hours):	(and time if not 06:00 hours):
<b>SUB-LET CAPACITY:</b>	
<b>Forward Flow:</b> $\text{Nm}^3/\text{h}$	<b>Reverse Flow:</b> $\text{Nm}^3/\text{h}$
	<b>(Associated Reverse Flow Capacity)</b> $\text{Nm}^3/\text{h}$
	<b>(Enhanced Reverse Flow Capacity)</b> $\text{Nm}^3/\text{h}$
<b>CAPACITY CHARGE:</b>	
<b>Forward Flow:</b> $\text{p}/\text{Nm}^3$	<b>Reverse Flow:</b> $\text{p}/\text{Nm}^3$
<b>SPECIAL CONDITIONS:</b>	
Date	
and time of Transaction:	

**Signed:**

**Duly Authorised Representative**  
of the Sub-Lessor

**Signed:**

**Duly Authorised Representative**  
of the Sub-Lessee

## SCHEDULE 2 FORM OF NOTICE OF SUB-LETTING

**NOTICE OF SUBLETTING** given by the **Sub-Lessor** and **Sub Lessee** to **Interconnector (UK) Limited** in accordance with Version 1.0 of the Interconnector Capacity Sub-Let Terms and Conditions. Terms defined in [ ] shall have the same meaning when used herein.

<b>Sub Lessor:</b> [Company Name] <b>Principal office address:</b>			
<b>Fax:</b>			
<b>Commercial Contact</b> [name]	<b>Phone</b>	<b>Email</b>	
<b>Operations Contact</b> [Out of Hours Contact]	<b>Phone</b>	<b>Email</b>	
<b>Sub Lessee:</b> [Company Name] <b>Principal office address:</b>			
		<b>Address for Invoicing (if different):</b>	
<b>Fax:</b>			
<b>Commercial Contact</b> [name]	<b>Phone</b>	<b>Email</b>	
<b>Operations Contact</b> [Out of Hours Contact]	<b>Phone</b>	<b>Email</b>	
<b>Financial Contact</b>	<b>Phone</b>	<b>Email</b>	
<b>START Date:</b> Date/Month/Year		<b>END Date:</b> Date/Month/Year	
<b>Time:</b> [UKT/CET?]		<b>Time:</b> [UKT/CET?]	
<b>FORWARD Flow Capacity</b>	Nm <sup>3</sup> /hr	<b>REVERSE Flow Capacity</b> (Associated Reverse Flow Capacity) (Enhanced Reverse Flow Capacity)	Nm <sup>3</sup> /hr
<p>1) In relation to the Sub-Let Capacity, the Sub-Lessor and Sub-Lessee request Interconnector in the terms of Article 18B.1(a)-(d) of Interconnector’s Standard Transportation Agreement (“STA”).</p> <p>2) The Sub-Lessor and Sub-Lessee each acknowledge that the Sub-Let Capacity carries with it an appropriate share (as determined in accordance with paragraph 4 of Appendix I of the STA) of any available Interruptible Capacity, which the Sub Lessee will be entitled to utilise accordingly.</p> <p>3) The Sub-Lessee authorises Interconnector to disclose information in accordance with Article 18(C)(a) of the Standard Combined Transportation Agreements.</p> <p>4) The Sub-Lessee undertakes to reimburse Interconnector on demand with:</p> <p style="margin-left: 20px;">i) all costs and expenses in connection with the Sub-Lessee being given access to ISIS and reasonable costs and expenses in connection with Interconnector giving effect to the Sub-Letting in the terms of Article 18(B).2(d) and the Sub-Lessor confirms that if the Sub-Lessee shall not re-imburse these costs and expenses on demand the Sub-Lessor (as a primary obligor) will reimburse Interconnector on demand with all such costs and expenses.;</p> <p style="margin-left: 20px;">ii) any Monthly Pressure Service Charge and/or Monthly Electricity Charge and/or Excess Capacity Charge attributable to the utilisation by the Sub-Lessee of all Sub-Let Capacity in respect of which it is a Sub-Lessee in the terms of Article 18(B).2(f).</p>			

Sign:

Sign:

As Duly Authorised Representative for [Sub-Lessor]

As Duly Authorised Representative for [Sub-Lessee]

Date:

Date: