



**MASTER AGREEMENT ON THE SALE, SUPPLY AND BALANCING OF FUEL GAS  
QUANTITIES**

between

**COMPANY**

- hereinafter referred to as "FUEL GAS SELLER" -

and

**OPAL Gastransport GmbH & Co. KG**

**Emmerichstrasse 11**

**34119 Kassel, Germany**

- hereinafter referred to as "OGT" -

- hereinafter "FUEL GAS SELLER" and "OGT" also individually and collectively referred to  
as the "Parties" -

**(Agreement ID: \_FG\_OGT)**



## **PART 1: GENERAL**

### **Article 1: Subject matter of this Master Agreement**

This Master Agreement defines the general arrangements for the sale, supply and balancing of fuel gas quantities as the provision of a service to OGT. The Parties shall define the details of the sale, supply and balancing of fuel gas by the FUEL GAS SELLER in the individual agreement attached as an annex to the Master Agreement. The fuel gas quantities shall be procured by the FUEL GAS SELLER in its own name and on its own account and sold to OGT. OGT will procure the gas quantities needed through offtake at the exit point and on the basis of the quantities that are allocated in a balancing group of the FUEL GAS SELLER and are necessary for the operation of the supra-regional gas transmission grid operated including the Greifswald landing station and Radeland compressor station. The FUEL GAS SELLER will provide the purchased fuel gas quantities for OGT pursuant to Article 5, will balance these gas quantities on the exit point via a balancing group and will provide the balancing services incurred for this.

### **Article 2: Definitions of terms**

- (1) The terms used shall have the following meanings:
  1. **“Exit point”** denotes the offtake point, at which the fuel gas quantities are needed.
  2. **“Balancing”** denotes the assignment of the exit point to a balancing group of the FUEL GAS SELLER, the balancing by the market area manager and the costs of the balancing.
  3. **“Individual agreement”** denotes an annex to the Master Agreement defining the terms and conditions for the supply and pricing of fuel gas quantities.
  4. **“GASPOOL”** denotes GASPOOL Balancing Services GmbH.
  5. **“Gas day”** denotes the period of time from 6:00 a.m. on a calendar day to 6:00 a.m. of the next calendar day.
  6. **“Handling fee”** denotes the fee in accordance with Article 8 (3) charged in addition to the spot price for supply and balancing.
  7. **“CET”** denotes Central European Time with any adjustment for summer time.



8. “**RLMmT**” denotes RLM exit points with a flat allocation profile (i.e. measured daily offtakes are divided by 24 for energy balancing purposes)
9. “**Spot price**” denotes the final settlement price in accordance with Article 8 (2).
10. “**Business days**” denotes all days that are not a Saturday or Sunday or a public holiday in at least one federal state of Germany. In addition, 24 and 31 December are not business days.
11. “**FUEL GAS INVITATION TO TENDER CONDITIONS**” denotes the terms and conditions for the invitation to tender as a service provider for the procurement and supply of fuel gas quantities issued by OGT in the version dated **10 August 2020**.

(2) Terms used in the singular shall also include the plural, except where expressly otherwise stated or where the context otherwise requires. Terms not otherwise defined herein shall have the meanings indicated by the Energy Industry Act (EnWG) of 7 July 2005 and the Gas Network Access Ordinance (GasNZV) of 3 September 2010, as amended from time to time. All references to time relate to CET.

## **PART 2: PURCHASE OF FUEL GAS QUANTITIES**

### **Article 3: Contents of the individual agreement to the Master Agreement**

- (1) The individual agreement provides the basis for the sale, supply and balancing of fuel gas quantities by the FUEL GAS SELLER. The individual agreement shall contain at least the following information (cf. Annex 1):
  - The company name of the FUEL GAS SELLER
  - The contact data of the Parties for the handling
  - Reference to the respective Master Agreement
  - Details of any handling fee
  - Balancing group numbers
- (2) The Parties shall be obliged to notify each other about changes to the contact and handling data defined in the individual agreement, in writing and in good time with a period of notice of ten (10) Business days.



- (3) The FUEL GAS SELLER must have been admitted as a bidder in accordance with Article 2 (9) of the FUEL GAS INVITATION TO TENDER CONDITIONS and the FUEL GAS SELLER's offer must have been accepted by OGT before this Master Agreement and an individual agreement under this Master Agreement can be concluded.

#### **Article 4: Conclusion of the individual agreement**

The individual agreement as an annex to the Master Agreement shall be concluded after OGT has signed the individual agreement that had been sent and signed by the FUEL GAS SELLER in duplicate. The FUEL GAS SELLER shall receive a copy of the individual agreement that has been signed by OGT and in which a Master Agreement ID has been entered by OGT. The sending it to take place by post.

#### **Article 5: Obligations of the Parties, transfer of ownership and passage of risk**

- (1) The FUEL GAS SELLER is obliged to provide and transfer the fuel gas quantity determined in accordance with Article 7 to OGT at the exit point pursuant to the individual agreement and to carry out the balancing of it pursuant to Article 6.
- (2) OGT is obliged to except a fuel gas quantity determined pursuant to Article 7 at the exit point in accordance with the individual agreement and to pay the fee pursuant to Article 8 to the FUEL GAS SELLER.
- (3) Ownership of the fuel gas quantities and risk for them shall only be transferred at the start of the hour when these have definitively been allocated to OGT by GASPOOL.

#### **Article 6: Handling the balancing group**

- (1) The FUEL GAS SELLER shall inform OGT early, no later than fifteen (15) business days before the start of the term pursuant to Article 20, of the balancing group numbers and sub-balancing account numbers in which the exit point is to be included.
- (2) OGT will assign the exit point to the RLMmT allocation group. The FUEL GAS SELLER is entitled to subsequently switch allocation groups.
- (3) The FUEL GAS SELLER must assume any rights and obligations of a balancing group manager for the balancing of the exit point.



- (4) OGT will endeavour to provide the FUEL GAS SELLER with the respective gas day's available measurement data on the balancing group management.

#### **Article 7: Determination of fuel gas quantities**

The fuel gas quantities that are necessary for Article 5 and relevant to billing pursuant to Article 8 are determined for the exit point included in a balancing group of the FUEL GAS SELLER pursuant to Article 6 on the basis of the MSCONS M+10 time series of the respective gas day communicated by OGT.

#### **Article 8: Fee**

- (1) The fee to be paid by OGT to the FUEL GAS SELLER shall comprise a volume-based spot price per measured MWh of fuel gas quantity in accordance with Section (2) of this article and a handling fee in accordance with Section (3) of this article.
- (2) The volume-based fee shall be as derived from the fuel gas quantities of the respective gas day determined in accordance with Article 7 and from the definitively published version of the European Gas Spot Index (EGSI) for GASPOOL on EEX ([www.powernext.com/spot-market-data](http://www.powernext.com/spot-market-data)) for the gas day in question.

If the spot price for the day of the definitive quantity allocation is not published or is not published in a comparable manner, the Parties shall reach a different arrangement that corresponds as closely as possible to the economic rationale of the provisions on pricing.

- (3) The handling fee is specified in euros per measured MWh of fuel gas quantity and is to be found in the individual agreement in the appendix to the Master Agreement. It covers all the FUEL GAS SELLER's necessary costs for supply and balancing, also including the RLM imbalances invoicing, the balancing costs, particularly costs for structuring charges and flexibility costs charges, imbalance quantities and balancing neutrality charges.

### **PART 3: GENERAL PROVISIONS**

#### **Article 9: Taxes**

- (1) The fees specified in this Master Agreement and the individual agreement shall be net fees; value-added tax at the applicable rate shall be charged separately on top of them.



- (2) If energy tax is incurred on natural gas (“natural gas tax”), it shall be disclosed separately at the statutory rate and additionally invoiced.
- (3) If costs or taxes are incurred in connection with the procurement of fuel gas quantities from purchase of CO2 emission certificates in accordance with Brennstoffemissionshandelsgesetz (BEHG), these shall be disclosed separately at the statutory rate and additionally invoiced.

#### **Article 10: Invoicing and payment**

- (1) The FUEL GAS SELLER shall invoice OGT monthly for the actual fees in accordance with Article 8 (2) and (3) for the fuel gas quantities provided in accordance with Article 7, taking into account Article 9 and with the total sum rounded to two (2) decimal places, by the twentieth (20th) calendar day of the following month. If the twentieth (20th) calendar day of the following month is not a business day, the business day following the twentieth (20th) calendar day applies. Invoices shall be sent to the following e-mailbox: rechnungen@opal-gastransport.de.
- (2) OGT shall pay the amount invoiced by the twentieth (20th) business day after receipt of the invoice. The payment shall be made by bank transfer of the amount in question being to an account of the FUEL GAS SELLER to be specified on the invoice.
- (3) In the event of invoicing for the month of December, this shall take place on 1 December by means of a preliminary invoice that the FUEL GAS SELLER provides on the basis of forecast prices and quantities to be agreed with OGT. In the January of the following year, a final invoice shall be issued with the actual quantities and prices for the month of December.
- (4) Offsetting claims against the FUEL GAS SELLER or asserting a right of retention is only permissible if the claims are undisputed or an enforceable judgement has been rendered in respect of them.
- (5) The place of performance for payments is the administrative office of the FUEL GAS SELLER.

#### **Article 11: Violation of contractual obligations and termination for cause**

- (1) If the FUEL GAS SELLER does not fulfil its contractual obligations in full or in part (in particular the obligation regarding balancing of the exit point), OGT is entitled, without the need for further warning, to refuse further fulfilment and to replace the fuel gas quantities with quantities from other FUEL GAS SELLERS. OGT's right to claim damages shall remain unaffected.



(2) This Master Agreement and its associated individual agreement can be terminated for cause. Cause exists in particular where:

- a) a Party repeatedly violates its contractual obligations;
- b) execution is levied on the assets of the other Party and is not averted within three (3) months.

Cause in relation to the FUEL GAS SELLER also exists if, in accordance with Article 2 (4) of the FUEL GAS INVITATION TO TENDER CONDITIONS, admission as a bidder in accordance with Article 2 (8) of the FUEL GAS INVITATION TO TENDER CONDITIONS has been withdrawn from the FUEL GAS SELLER.

(3) Termination for cause in accordance with Section (2) of this article must be made in writing.

#### **Article 12: Force majeure and impediments to performance**

(1) The Parties shall be released from fulfilling their obligations if and to the extent they are prevented from fulfilling them due to force majeure or circumstances over which they have no control and which it would be unreasonable for them to avert, considering the quid pro quo, even by applying the due care and technical and economic means that can reasonably be expected. They shall include in particular, but not exhaustively:

- disruptions to delivery and procurement due to strikes,
- lockouts,
- legislative acts,
- official measures,
- power outage,
- natural disasters,
- terrorist attacks,
- outage of telecommunications connections, and
- disruptions to operations, defects, and necessary repairs,

but not the impossibility of paying money.

(2) The Party affected by force majeure or the circumstances mentioned in Section (1) shall notify the other Party immediately and inform it of the anticipated duration of the force majeure or the respective circumstances. The affected Party will use all technically possible and economically



reasonable means to ensure that the requirements to fulfil this Master Agreement and the individual agreement are restored.

- (3) Irrespective of Section (1) of this article, the Parties shall be released from fulfilling their obligations under this Master Agreement if maintenance of the pipeline system or measures to build new facilities or to modify or expand existing facilities (such as gas pressure regulating and metering stations, compressors, etc.) impede OGT to fulfil its obligations from the Master Agreement and the individual agreement concluded.
- (4) Section 16 (2) of the Energy Industry Act (EnWG) shall not be affected.

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### **Article 13: Liability**

- (1) The Parties shall be liable without limitation for injury to life, body or health through fault on their own part or on the part of their own subcontractors or legal representatives; "fault" here shall denote intent and every type of negligence. The Parties shall furthermore be liable without limitation for loss or damage due to breach of obligations caused with intent or through gross negligence on the part of the Parties themselves, their subcontractors or their legal representatives.
- (2) In cases of simple negligence, the Parties shall be liable only for loss or damage arising from the breach of contractual obligations that must be fulfilled to ensure proper performance of the contract in the first place and on the fulfilment of which the Party may usually rely (cardinal obligations). The Parties' liability shall be limited to loss or damage that is typical of the agreement and was foreseeable when the agreement was concluded.
- (3) OGT shall not be liable for financial loss caused by measures under Section 16 (2) of the Energy Industry Act (EnWG). In particular, measures under Section 16 (2) of the Energy Industry Act (EnWG) include measures taken to ensure gas supplies to domestic customers under Section 53 a of the Energy Industry Act (EnWG).
- (4) The provision in Section 5 of the Gas Grid Access Ordinance (GasNZV) shall not be affected.
- (5) Liability of the Parties under peremptory provisions of the Liability Act (*Haftpflichtgesetz*) and other legal provisions shall remain unaffected.
- (6) Sections (1) to (5) of this article shall also apply in favour of legal representatives, employees and subcontractors or agents of OGT. With the exception of Sections (4) and (5) of this article, this shall also apply mutatis mutandis to the FUEL GAS SELLER.

### **Section 14: Confidentiality and data protection**

- (1) Subject to the provisions of Section (2) of this article, the Parties shall treat confidentially the content of this Master Agreement and the individual agreement and all information which they obtain in connection with the Master Agreement and the individual agreement (hereinafter referred to as "confidential information") and shall not disclose such confidential information or make it accessible to third parties without the prior written consent of the Party affected. The Parties undertake to use the confidential information exclusively for the purpose of performing the Master Agreement and the individual agreement.



- (2) Either Party shall be entitled to disclose without the written consent of the other Party any confidential information obtained from the other Party
- a) to an affiliated company as defined in Section 15 of the Stock Corporation Act (AktG), provided that such a company is likewise obligated to maintain confidentiality,
  - b) to its representatives, consultants, banks and insurers if and to the extent that disclosure is needed for proper performance of the contractual obligations and such persons or companies have undertaken to treat such information confidentially prior to the receipt thereof or are under a professional secrecy obligation in respect of such information; or
  - c) to the extent that the confidential information
    - was legitimately known to the Party receiving the information at the time it was obtained from the other Party or
    - was already in the public domain or becomes publicly available other than through an act or omission of the receiving Party.
- (3) The obligation to maintain confidentiality shall remain in force for a period of two (2) years after the expiry or termination of the Master Agreement.
- (4) OGT shall be entitled to transmit consumption, billing and contractual data to third parties in so far as and for as long as this is necessary for proper performance of this Master Agreement or the individual agreement. The FUEL GAS SELLER hereby declares its acceptance of automated data processing by OGT or by a company commissioned by OGT in accordance with the provisions of data protection laws.

#### **Article 15: Legal succession**

- (1) Either Party shall be authorised to assign the rights and obligations under this Master Agreement and the individual agreement to a third party. The prior consent of the other Party shall be required for any such assignment. Said consent shall be denied only if the third party cannot reliably guarantee that this Master Agreement and the individual agreement will be fulfilled or if there is a good cause to justify refusing said consent.



- (2) If OGT assigns the rights and obligations under this Master Agreement and the individual agreement to a company affiliated with OGT as defined in Section 15 of the Stock Corporation Act (AktG), the FUEL GAS SELLER's consent is not required.
- (3) Section (2) of this article shall apply mutatis mutandis if OGT transfers grid operation to a third party.
- (4) If the FUEL GAS SELLER assigns the rights and obligations under this Master Agreement and the individual agreement to a company affiliated with the FUEL GAS SELLER as defined in Section 15 of the Stock Corporation Act (AktG) and that fulfils the requirements specified in the FUEL GAS INVITATION TO TENDER CONDITIONS, OGT's consent is not required.

#### **Article 16: Loyalty**

If, during the term of this Master Agreement or the individual agreement, the economic, legal and/or technical circumstances under which the contractual provisions were agreed change so significantly that a Party can no longer be reasonably expected to continue to abide by the contractual provisions because the Parties' intentions of achieving a fair balance between their mutual economic interests can no longer be fulfilled, the Party in question can demand that the contractual provisions be modified to reflect the change in circumstances.

#### **Article 17: Severability clause**

- (1) If one or more of the provisions of this Master Agreement or the individual agreement are or become invalid or unenforceable, that shall not affect the validity of the other provisions or the existence or continuation of this Master Agreement or the individual agreement.
- (2) The Parties shall be obliged to replace the invalid or unenforceable provision with effect as of the time of said provision's invalidity or unenforceability with a new, valid and enforceable agreement which, in terms of economic success, is as similar as possible to said provision.

#### **Article 18: Written form**

Amendments and additions to this Master Agreement or the individual agreement shall not be valid unless made in writing. This also applies to amendment to the requirement for written form.



**Article 19: Place of jurisdiction and applicable law**

- (1) The place of jurisdiction for any disputes arising from this Master Agreement and the individual agreement is Kassel, Germany. Disputes shall be ruled on by ordinary jurisdiction.
- (2) This Master Agreement and the individual agreement shall be governed solely by the law of the Federal Republic of Germany, to the exclusion of international private law. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.

**Article 20: Term**

- (1) This Master Agreement shall come into force when it has been signed by both Parties.
- (2) This Master Agreement and the associated "OGT Individual Agreement" annex shall apply from **6:00 a.m. on 1 October 2020 to 6:00 a.m. on 1 October 2021.**

**Article 21: Integral parts of the Master Agreement**

The OGT's FUEL GAS SELLER INVITATION TO TENDER CONDITIONS in the version dated 10 August 2020 and the "OGT Individual Agreement" annex are integral parts of this Master Agreement.

Place, .....

Kassel, .....

**COMPANY**

**OPAL Gastransport GmbH & Co. KG**

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