

---

**GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF  
NATURAL GAS TO LARGE BUSINESS CONSUMERS AND  
RESELLERS  
IN THE NETHERLANDS**

---

VERSION 2018-11

OMV GAS MARKETING TRADING & FINANCE B.V.

## Table of Contents

1	Definitions.....	4
2	Applicability and scope.....	6
3	The Contract.....	6
4	The supply of Natural Gas .....	7
5	Term and termination .....	8
6	Connection and transport agreement(s), installation and Customer licenses.....	9
7	Capacity .....	10
8	Programme Responsibility .....	10
9	Measurement .....	11
10	Price .....	12
11	Invoicing and Payment.....	12
12	Security .....	14
13	Customer (information) obligations.....	14
14	Liability .....	15
15	Force Majeure .....	16
16	Data Protection .....	16
17	Confidentiality.....	17
18	Disputes and applicable law .....	17
19	Final Provisions.....	17

## **1 Definitions**

For the purpose of the Contract, including these General Terms and Conditions, the terms and expressions shall have the same meaning as in the Dutch Gas Act and the Gas Codes. Capitalised terms and expressions shall have the following meaning:

**Business Day:**

Means a Day (other than Saturday or Sunday) on which commercial banks are open for general business in Austria, The Netherlands and the United Kingdom.

**Capacity:**

The maximum hourly consumption peak per Delivery Point.

**Contract:**

The Contract for the sale and supply of Natural Gas in the Netherlands entered into between the Customer and the Supplier and annexes thereto, including these General Terms and Conditions, which annexes and General Terms and Conditions form an integral part of the Contract.

**Customer:**

The Large Business Consumer or Reseller who purchases and offtakes Natural Gas from the Supplier pursuant to the Contract.

**Day:**

Means a period commencing at 06:00 hours CET on any day and ending at 06:00 hours CET on the following day, unless otherwise agreed by the Parties in the Contract.

**Delivery Point(s):**

The point(s) where the Natural Gas is delivered by the Supplier and taken off by the Customer as indicated in the Contract.

**Delivery Period:**

The period during which the Supplier shall supply Natural Gas to the Customer as agreed upon in the Contract.

**Dutch Gas Act:**

The Dutch Gas Act of 22 June 2000, as amended from time to time.

**DNO:**

An operator of a regional distribution network appointed pursuant to section 2, paragraph 8, of the Dutch Gas Act.

**Gas Codes:**

The conditions pursuant to sections 12a, 12b and 22 of the Dutch Gas Act, as amended from time to time.

**General Terms and Conditions:**

These General Terms and Conditions for the supply of Natural Gas to Large Business Consumers and Resellers in the Netherlands, as amended from time to time.

**Large Business Consumer:**

A Customer (1) who qualifies as a large scale consumer with a connection to the system of a DNO or the TSO with a Capacity of more than 40m<sup>3</sup>(n) per hour, or (2) who qualifies as a small scale consumer with a connection to the system of a DNO with a maximum Capacity of 40m<sup>3</sup>(n) per hour who has consented, in accordance with section 52c of the Dutch Gas Act, to derogations from the Dutch Gas Act.

**m<sup>3</sup>(n):**

A standard cubic meter with a caloric value of 35.17 MegaJoule.

**Natural Gas:**

Substance that is in a gaseous state at a temperature of 15° Celsius and a pressure of 1.01325 bar and primarily consists of methane or another substance that is similar to methane due to its properties.

**Offer:**

All written Contract offers issued by the Supplier, including offers issued by e-mail or through other digital media.

**Party:**

The Customer or the Supplier.

**Profile Connection:**

(1) A connection to the system of a DNO with a maximum Capacity of 40m<sup>3</sup>(n) per hour within the consumption category G1A or G2A or (2) a connection to the system of a DNO within the consumption category G2C, as meant in the Gas Codes.

**Programme Responsibility:**

The responsibility as defined in section 17b of the Dutch Gas Act.

**Reseller:**

A Customer, who is not a Large Business Consumer and who purchases and offtakes Natural Gas pursuant to the Contract, for the purpose of supplying a third party with Natural Gas on its own account pursuant to a supply agreement between the Reseller and such third party.

**Supplier:**

OMV Gas Marketing Trading & Finance B.V. or any other entity within the OMV group that sells and supplies Natural Gas pursuant to the Contract.

**TTF**

The 'Title Transfer Facility' facilitated by the TSO that serves as a virtual Delivery Point.

**TSO:**

The Dutch Gas Transmission System Operator, Gasunie Transport Services B.V.

**Telemetry Connection:**

A Delivery Point with a connection to the system of a DNO or the TSO which is metered by use of equipment fit for remote meter reading on a daily or hourly basis and registered as a meter type GXX or GGV.

**2 Applicability and scope****2.1**

These General Terms and Conditions apply to and form an integral part of all Offers and Contracts, including any amendments thereof and annexes and/or additions thereto.

**2.2**

The Customer has received a (digital) copy of the General Terms and Conditions, has read and understood the contents thereof and has accepted the applicability and contents of the General Terms and Conditions.

**2.3**

Deviations from the General Terms and Conditions shall only apply if such deviations are agreed upon in writing. In the event of any contradictions between the Contract and the General Terms and Conditions, the Contract shall prevail.

**2.4**

The Supplier has the right to amend the General Terms and Conditions. Any amendments shall also apply to all existing Offers and Contracts. Amendments to the General Terms and Conditions shall enter into effect thirty (30) Days after notification to the Customer. The Customer does not have the right to terminate the Contract pursuant to the amendment, unless pursuant to the nature of the amendment it cannot reasonably be expected that the Customer remains bound by the Contract.

**2.5**

If any part of the Contract and/or General Terms and Conditions should be deemed null, void, invalid or inapplicable, the remaining provisions shall still apply. Parties shall agree on new provisions to replace the null, void, invalid or inapplicable ones with provisions that – as much as possible – have the same economic, legal and practical effect.

**2.6**

The applicability of any (general) terms and conditions of the Customer is hereby explicitly denounced.

**3 The Contract****3.1**

The Contract shall come into effect after the Customer has first received a non-binding Offer, has accepted such Offer, has subsequently received and (digitally) signed the final Offer, the Supplier has received the final Offer signed by the Customer, the Supplier has confirmed the receipt of the final Offer signed by the Customer and the Supplier has also signed the final Offer. The final Offer signed by both Parties constitutes the Contract in writing. The aforementioned confirmation may also include confirmation by e-mail or any other digital confirmation. In the event that the Supplier

has requested security in accordance with article 12 as a condition precedent, the Contract will only enter into effect after the requested security was provided by the Customer. If the Customer does not provide the requested security within one (1) month prior to the start of the Delivery Period, the Supplier has the right to terminate the supply of Natural Gas without any liability towards the Customer as a result thereof.

### **3.2**

An Offer shall be valid for a period of **10 Business Days**, unless specified otherwise in the respective Offer. Any amendments and/or additions to an Offer or the Contract have to be agreed upon in writing.

### **3.3**

The Customer shall not in any event transfer (any part of) its rights and/or obligations under the Contract without the prior written consent of the Supplier. In the event that the Customer has provided security in accordance with article 12, the assignee must assume the provided securities or replace them with securities to the same effect. Any assignee must also at least have the same creditworthiness as the Customer. If these requirements are not met and/or in the event that the Supplier has reasonable ground to doubt the technical, financial or economic ability of the assignee to fulfill the obligations pursuant to the Contract, the Supplier is entitled to withhold its consent with the transfer and/or request (additional) security in accordance with article 12. The Supplier is also entitled to reasonably withhold its consent or make such consent subject to conditions for other important reasons.

### **3.4**

The Supplier is entitled to transfer, pledge or encumber all or part of its rights and obligations under the Contract to a third party. The Customer hereby consents in advance therewith. In the event of transfer, the assignee shall substitute the assignor in all of its rights and obligations.

### **3.5**

In the event that the same Contract is entered into by more than one Customer, joint and several liability regarding the obligations pursuant to the Contract shall apply for all Customers that are Party to the same Contract.

### **3.6**

The Supplier has the right to amend the Contract if such amendment is required pursuant to applicable legislation or regulations. The amendment shall apply and enter into force immediately and automatically. If the Supplier enforces its rights as meant in this article, it cannot be held liable towards the Customer for any resulting damages.

## **4 The supply of Natural Gas**

### **4.1**

The Supplier shall sell and supply Natural Gas to the Customer and the Customer shall buy and offtake Natural Gas from the Supplier in accordance with the Contract.

### **4.2**

All rights, title and risk pertaining to the supplied volumes of Natural Gas shall transfer from the Supplier to the Customer upon delivery at the Delivery Point(s).

### **4.3**

The Supplier confirms that during the Delivery Period, it will have all the necessary licenses, contracts and arrangements with the TSO in place to fulfill its obligations pursuant to the

Contract. The Customer hereby authorizes the Supplier to obtain all information from the TSO and/or any DNO it needs to fulfill its obligations pursuant to the Contract.

#### **4.4**

The information in the central connection register of the TSO and DNO's (*centraal aansluitingenregister*) on the qualification of the Delivery Point(s) of the Customer as either a Profile Connection or a Telemetry Connection shall be leading and binding.

#### **4.5**

Unless otherwise agreed in the Contract, the Supplier shall be the exclusive supplier of Natural Gas to the Customer in the Netherlands throughout the Delivery Period and the Customer agrees to source all of its Natural Gas needs in the Netherlands from the Supplier, to the exclusion of all other Natural Gas suppliers. The Customer confirms that prior to the Delivery Period, it has terminated its supply agreement(s) for Natural Gas with any other and/or previous suppliers. During the Delivery Period, the Customer shall not have, enter into or be subject to, obligations arising from any supply agreement(s) for Natural Gas with parties other than the Supplier.

### **5 Term and termination**

#### **5.1**

The term of the Contract is included in the Contract. Unless otherwise specified in the Contract, the Contract will terminate automatically after the end of the Delivery Period.

#### **5.2**

At any time during the term of the Contract the Supplier has the right to fully or partially terminate the Contract, or suspend or end the supply of Natural Gas, without prior legal intervention or notification, any resulting costs being exclusively borne by the Customer, and without prejudice to the Supplier's right to claim costs and damages, in the event:

- (i) that the Customer has filed for suspension of payment, has been granted suspension of payment, has filed for bankruptcy or is declared bankrupt, is dissolved or liquidated or proceeds to dissolve, liquidate, transfer or discontinue its business, attachments have been made to all or parts of the Customer's assets or the Customer for any other reason is or will be unable to fulfill its obligations pursuant the Contract;
- (ii) that the Customer is in default of its payment obligations pursuant to the Contract and/or fails to timely provide the requested security in accordance with article 12;
- (iii) that the Customer does not comply with article 13 of the General Terms and Conditions, any other obligation pursuant to the Contract and/or its statutory obligations pursuant to Dutch and/or European law; and
- (iv) of force majeure as defined in article 15 of the General Terms and Conditions persisting for more than two (2) months and no satisfactory solution is found by mutual agreement between the Parties within this period.

#### **5.3**

In the event of termination by the Supplier the Customer shall owe all amounts due to the Supplier pursuant to the Contract, including compensation for costs incurred by the Supplier as a result of the termination. The Customer's debts shall immediately become due and payable.

#### **5.4**

In the event of suspension of supply, all costs resulting from the suspension and subsequent restoration of the supply shall be borne by the Customer. Under no circumstances shall the

suspension of the supply of Natural Gas result in the suspension of the Customer's obligations under the Contract.

#### **5.5**

If the Supplier enforces its rights as meant in this article, it cannot be held liable towards the Customer for any resulting damages nor does the Customer have the right to claim any form of compensation.

#### **5.6**

If Parties do not renew the Contract or enter into a new Contract after the term of the present Contract, the Customer shall ensure that it shall have entered into a new supply agreement for Natural Gas with a third party supplier pursuant to which the Customer is entitled to buy and offtake Natural Gas immediately following the end of the term of the Contract. The Customer shall cooperate with and perform any necessary actions for the change of supplier. A Large Business Consumer with a connection with a maximum Capacity of 40m<sup>3</sup>(n) per hour shall guarantee that the third party supplier shall cooperate with the necessary administrative switch procedures required to execute this article 5.6.

#### **5.7**

If the Customer does not comply with article 5.6, the Supplier is entitled, at its sole discretion and without being liable to pay any damages, to:

- (i) terminate the supply of Natural Gas; or
- (ii) continue the supply of Natural Gas and the performance of Programme Responsibility against a variable price to be determined by the Supplier and against an additional fee to be determined by the Supplier for any other services provided by the Supplier.

### **6 Connection and transport agreement(s), installation and Customer licenses**

#### **6.1**

At its own risk and expense, a Large Business Consumer shall have entered into the necessary connection and transport agreement(s) with the TSO or DNO throughout the term of the Contract and the Delivery Period. For Large Business Consumers with a connection with a maximum Capacity of 40m<sup>3</sup>(n) per hour, the Supplier shall facilitate the connection and transport agreement(s) in accordance with the Gas Codes. The Large Business Consumer guarantees that it shall adhere to all the terms and conditions that form part of such connection and transport agreement(s).

#### **6.2**

A Large Business Consumer also guarantees that its gas installation is in good working order and that it has taken, and shall continue to take, all necessary safety and maintenance measures in compliance with the applicable legislation and regulations.

#### **6.3**

At its own risk and expense, a Reseller shall have the necessary license and/or recognition issued by the TSO to trade Natural Gas on the TTF and/or any other licenses and recognitions it may need to purchase and resell Natural Gas and, if required, book capacity. The Reseller guarantees that it shall adhere to all its obligations pursuant to these licenses and recognitions.

#### **6.4**

If the Customer does not comply with its obligations pursuant to the previous paragraphs 6.1 through 6.3 (if applicable), this does not exempt the Customer from any obligations pursuant to



the Contract, nor shall this be a valid reason for (early) termination of the Contract or suspension of performance under the Contract.

## **6.5**

The Supplier shall not be liable for any damages following from suspended, interrupted or insufficient supply of Natural Gas as a result of (i) the Customer being in breach of its obligations pursuant to this article 6, the relevant connection and transfer agreement(s), licenses or recognitions issued by the TSO and/or (ii) any defect in or failure of the system of the TSO or a DNO, an installation or a Delivery Point.

## **7 Capacity**

### **7.1**

The Supplier shall book the exit Capacity with the TSO necessary for the performance of the Contract in accordance with the parameters as set out in the Contract and the annexes thereto.

### **7.2**

In the event that the Customer has exit Capacity rights, the Customer will at its own expense transfer its exit Capacity rights for the relevant Delivery Period and/or any other relevant usage rights to the Supplier or any third party nominated by Supplier performing the Programme Responsibility. The aforementioned transfer shall be in accordance with the applicable terms and conditions of the TSO.

### **7.3**

Any Capacity costs related to the supply to the Customer shall be at the expense and risk of the Customer. The Supplier shall pass on to the Customer any fees, charges or costs charged by the TSO and/or the DNO in relation to exit Capacity costs or exit Capacity overshoots pertaining to the volumes purchased and taken off by the Customer pursuant to the Contract.

### **7.4**

In the event of Capacity overruns the Customer shall pay a penalty (to be determined by the Supplier in each individual case and per connection).

### **7.5**

The Supplier shall not be liable for any damages resulting from insufficient or not available exit Capacity that is or is to be booked on behalf of the Customer.

## **8 Programme Responsibility**

### **8.1**

A Large Business Consumer shall transfer to the Supplier its Programme Responsibility in relation to the amounts of Natural Gas that are taken off at the Delivery Point(s) pursuant to the Contract under the conditions set out in the Contract.

### **8.2**

The Supplier has the right to outsource the performance of the Programme Responsibility to a third party.

### **8.3**

The Large Business Consumer shall timely and at its own expense provide the Supplier with all relevant data and information necessary for the performance of the Programme Responsibility, including information on any expected or unexpected changes in the normal operational management of the Customer's business and/or any other circumstances that may influence the

volumes the Customer will offtake. The Customer shall also take all other necessary measures and hereby irrevocably provides all necessary authorisations for the performance of the Programme Responsibility by the Supplier.

## **9 Measurement**

### **9.1**

The Large Business Consumer shall for its own risk and expense ensure that it has appointed an acknowledged meter responsible party (*erkende meetverantwoordelijke*), that it has the required metering equipment, that the quantities of Natural Gas supplied and their energy content are measured and that the measurement data are passed on in accordance with the provisions of the Gas Codes and/or any additional requirements of the TSO and/or DNO's. In the event that the Large Business Consumer has a connection with a maximum Capacity of 40m<sup>3</sup>(n) per hour the Supplier shall appoint an acknowledged meter responsible party (*erkende meetverantwoordelijke*) who shall be responsible for the collection and validation of measurement data.

### **9.2**

If the Large Business Consumer has a Telemetry Connection pursuant to the Gas Codes but does not have the required metering equipment for remote meter reading or the Large Business Consumer has a Profile Connection based on the information in the central connection register (*centraal aansluitingenregister*), the Supplier has the right to treat the relevant Delivery Point(s), as a Profile Connection(s).

### **9.3**

At the first request of the Supplier, the Large Business Consumer shall give the Supplier access to its metering equipment. The Large Business Consumer ensures that its metering equipment is accessible, can be properly read and is adequately protected against damage and wrongful use.

### **9.4**

The quantities of Natural Gas supplied are determined by using the metering equipment of the Customer.

### **9.5**

If there is any doubt regarding the correct functioning of the metering equipment or the correctness of the measurement data, both the Supplier and the Large Business Consumer have the right to request clarification from the acknowledged meter responsible party (*erkende meetverantwoordelijke*) and/or require a test of the metering equipment by a third party jointly appointed by the Parties. In the event that the Parties can not agree on the joint appointment within three (3) weeks after the request for a test, the Supplier shall be entitled to appoint a third party at its sole discretion. The Supplier shall timely inform the Large Business Consumer of the date, time and place of the test and, if the test is requested by the Large Business Consumer, also about the costs of the test. Both Parties are entitled to be present during the test. The costs of the test shall be borne by the Party who requested the test.

### **9.6**

In the event that it is established that the metering equipment has a larger deviation than is allowed pursuant to the Gas Codes, the Supplier shall determine the quantities of Natural Gas supplied based on the outcome of the test. Only the quantities of Natural Gas supplied during the period for which it has been determined that the metering equipment functioned incorrectly shall be recalculated, with a maximum of twenty-four (24) months starting from the date the request for a test was made.

## **9.7**

In the event that the test does not provide an outcome on the basis of which the Supplier can determine the quantities of Natural Gas supplied in the relevant period, the Supplier is entitled to estimate these quantities on the basis of the best available information. At its sole discretion, the Supplier may choose any of the following benchmarks:

- (i) the quantity of Natural Gas supplied in the corresponding period in the previous year;
- (ii) the average of the quantities of Natural Gas supplied in the preceding and subsequent period; or
- (iii) any other reasonable benchmark.

## **10 Price**

### **10.1**

The price for the supplied Natural Gas and other services provided by the Supplier is specified in the Contract.

### **10.2**

In the event that one of the indices as referred to in the Contract shall no longer be published or when its composition changes as a result of which the index is no longer representative, the Supplier shall determine an alternative index that restores as closely as possible the purpose of the current index. Such alternative index definition will replace the current index as of the date the alternative index is notified to the Customer by the Supplier.

### **10.3**

The Supplier shall pass on to the Customer all fees, charges, costs, penalties, tariffs, duties, levies and taxes imposed by the TSO or competent authority pertaining to the volumes purchased and taken off by the Customer pursuant to the Contract. The Supplier shall specify these amounts on the invoice.

### **10.4**

In the event of changes in the applicable legislation and regulations resulting in additional costs for the Supplier, the Supplier has the right to increase the price accordingly and invoice the amended price.

### **10.5**

In the event that the Customer has provided incorrect and/or incomplete information necessary for the calculation of the price, the Supplier has the right to amend the price and invoice the amended price.

## **11 Invoicing and Payment**

### **11.1**

On a monthly basis, the Supplier shall send an invoice to the Customer. Each monthly invoice pertains to the previous month.

### **11.2**

For Telemetry Connections, the invoices are based on the measurement data obtained in accordance with article 9. If measurement data pertaining to the previous month is not available the 16th Business Day after the month of delivery, the Supplier may base the invoice on an estimate while reserving the right to issue a new recalculated invoice as soon as the measurement data becomes available.

**11.3**

For Profile Connections, the invoices will be based on an estimate based on their profile and standard annual consumption (*standaard jaarverbruik*). The Supplier reserves the right to issue a new recalculated invoice as soon as the measurement data becomes available.

**11.4**

If at any moment a Delivery Point will no longer qualify as a Profile Connection and start to qualify as a Telemetry Connection (or vice-versa), the Supplier has the right to apply the provisions in the Contract that are applicable to the new qualification as of the date of the change.

**11.5**

Except as otherwise provided in the Contract, all invoices must be paid by the Customer within fourteen (14) Days following the date of issue of the invoice, by bank payment or any other form of payment accepted by the Supplier to the account of the Supplier as specified on the invoice. An invoice shall be considered to have been paid as soon as the aforementioned bank account of the Supplier has been credited with the entire invoiced amount.

**11.6**

The Customer shall not offset the invoice or balance due against any claims it may have vis-à-vis the Supplier.

**11.7**

The Customer shall notify the Supplier of any complaints regarding an invoice within two (2) months after the invoice was issued. If a complaint was not notified to the Supplier within this period, the invoice will be deemed to have been approved by the Customer. The Supplier will take a complaint into consideration. In the event that the Supplier agrees there was a calculation error, the Supplier will send a new correct invoice. In such event, the invoice amounts shall not accrue interest as a result of overdue payment.

**11.8**

A complaint or any other circumstance shall not free the Customer from its payment obligations pursuant to the Contract nor allow the Customer to suspend its payment obligations pursuant to the Contract.

**11.9**

Any default in payment of all or part of the amounts owed on their exact due date shall automatically, immediately and without prior notification constitute default (*verzuim*) as meant in the Dutch Civil Code. The Customer shall owe statutory trade interest (*wettelijke handelsrente*) as meant in section 6:119a of the Dutch Civil Code accrued over the total amount due, to be calculated over the total period of time during which the Customer is in default, notwithstanding the Supplier's right to additional compensation for payment collection costs and (legal) fees related thereto. The amounts due pursuant to this paragraph 11.9 shall be immediately due and payable.

**11.10**

In the event that the Customer is in default, the Supplier may demand additional security in accordance with article 12.

## **12 Security**

### **12.1**

If the Supplier at any moment deems the creditworthiness of the Customer insufficient, the Customer shall, upon first request of the Supplier and within five (5) Business Days, take one or more of the following security measures, to be chosen by the Supplier at its sole discretion:

- (i) provide the Supplier with an unconditional on first demand bank guarantee / standby letter of credit from a bank from the European Economic Area (EEA) and/or Switzerland with an external rating of at least BBB of Standard & Poor's or a comparable Moody's rating guaranteeing unconditional payment on first demand for an amount deemed fit by the Supplier;
- (ii) pay an advance or a deposit to the Supplier for the amount corresponding with double the value of the biggest monthly delivery against the total price as included in the Contract (including all taxes and other costs);
- (iii) provide unconditional collateral for an indefinite period of time from a bank from the EEA and/or Switzerland with an external rating of at least BBB of Standard & Poor's or a comparable Moody's rating satisfactory to the Supplier and for the amount corresponding with double the value of the biggest monthly delivery against the total price as included in the Contract (including all taxes and other costs); or
- (iv) provide a parent company guarantee for the amount corresponding with double the value of the biggest monthly delivery against the total price as included in the Contract (including all taxes and other costs), insofar the Supplier deems the creditworthiness of the parent company sufficient.

### **12.2**

Any costs relating to any of the measures listed in the previous paragraph shall be borne by the Customer. The Supplier shall not owe any interest accrued over the security.

### **12.3**

The Customer shall ensure that the bank guarantee as meant in paragraph 12.1 shall be valid for the full term of the Contract and for three (3) months thereafter, including any eventual extensions that have been expressly and mutually agreed in writing. The Customer shall update the bank guarantee at the first request of the Supplier, as well as each time that the agreed quantities of consumption and/or the price shall be modified.

## **13 Customer (information) obligations**

### **13.1**

The Customer shall cooperate in every possible way with the Supplier so as to enable the Supplier's performance of its obligations pursuant to the Contract. In any event the Customer shall:

- (i) upon the first request of the Supplier, provide the Supplier with the following information and/or documents (if applicable):
  - (A) a copy of the connection and transfer agreement(s) entered into with the TSO or DNO;
  - (B) proof of the relevant licenses and recognitions issued by the TSO;
  - (C) filled out annexes 1 and 2 to the Contract;
  - (D) tax information affecting the Customer's obligations pursuant to the Contract.
- (ii) immediately or in any event as soon as possible inform the Supplier of:

- (A) changes in the information pertaining to the Delivery Point(s), in the information included in annexes 1 and 2 to the Contract and/or in any other relevant address, invoicing or tax information;
- (B) damages, irregularities, interruptions, faults and/or (intended) amendments relating to the connection(s), installation(s) and/or measuring instrument(s);
- (C) substantial changes or interruptions in the expected Natural Gas needs of the Customer (including but not limited to alterations in the normal operations resulting in significant changes in Natural Gas consumption or consumption profiles);
- (D) expected or unexpected changes in the normal operational management of the business of the Customer, and any plans to move, transfer or terminate the business of the Customer, or any direct or indirect change of control;
- (E) expected or potential deterioration of the financial position of the Customer; and
- (F) any other information that is relevant and/or useful for the Supplier in order to perform its obligations pursuant to the Contract.

### **13.2**

The Customer guarantees that all provided information is accurate and complete. The Customer shall be liable for any damages arising from the incorrectness, incompleteness, or untimely disclosure to the Supplier of the documents and/or information as meant in the previous paragraph.

## **14 Liability**

### **14.1**

The Supplier shall not be liable for any damages resulting from the failure of the Supplier (or its employees or contractors) to meet its obligations pursuant to the Contract and/or any third party claims, unless the liability is the result of wilful misconduct (*opzet*) or gross negligence (*grove schuld*).

### **14.2**

The Customer shall indemnify the Supplier for any third party claims relating to or following from the obligations of the Supplier pursuant to the Contract.

### **14.3**

Without prejudice to paragraph 14.1, under no circumstances shall the total liability of the Supplier with respect to the present Contract exceed EUR 100,000.- per event and up to a maximum of EUR 200,000.- per year. Under no circumstances shall the Supplier be liable for indirect damages (such as loss of clientele, earnings or profits, impact on business, loss of production and third party claims/debts).

### **14.4**

The Customer shall inform the Supplier of any damages and/or claims in writing as soon as possible but in any event no later than fourteen (14) Days after the relevant occurrence that gave rise to the claim or damage. If the Customer does not timely inform the Supplier, the Supplier reserves the right to dismiss the claim or ignore the reported damages.

## **15 Force Majeure**

### **15.1**

If as a result of a force majeure event as meant in section 6:75 of the Dutch Civil Code a Party is wholly or in part unable to perform its obligations pursuant to the Contract, it shall be exempted from such obligations provided that the Party invokes this article. Force majeure events shall include but not be limited to:

- (i) interruptions, irregularities and failure of the system of the TSO and/or DNO, an installation, a connection, a Delivery Point and/or a default under, termination of or absence of a connection and transport agreement;
- (ii) natural disasters, strikes, boycotts, hacker attacks, failure of (digital) systems, legislative changes and/or government measures.

### **15.2**

Any situation of force majeure shall however not exempt the Customer from its payment and security obligations as meant in articles 10 through 12, its information obligations as meant in article 13 and its confidentiality obligations as meant in article 17.

### **15.3**

The Parties shall do all that is in their power to limit the consequences of any situation of force majeure and to resume the normal performance of the Contract as soon as possible.

### **15.4**

The Party claiming the existence of a force majeure event shall immediately notify the other Party in order to agree upon the procedure to be followed, which may be enacted by the Parties in the form of an amendment to the Contract.

## **16 Data Protection**

### **16.1**

Notwithstanding any other provisions of the Contract, national data protection laws and the General Data Protection Regulation (GDPR) EU 2016/679 (as amended from time to time), shall apply and shall be adhered to as legally prescribed.

### **16.2**

Each Party shall (and shall ensure that its respective subcontractors shall) use all personal data of the disclosing Party or of disclosing third parties exclusively for the purposes of performing under the Contract. The disclosing Party confirms that it is authorized to provide the receiving Party with personal data. If one Party shall act as data processor as per applicable data protection laws, the Parties shall enter into a data processing agreement (in accordance with the legal requirements of article 28 GDPR) or an equivalent thereto in order to ensure legal compliance with respect to such data processing. If during the performance of the Contract the receiving Party needs to transfer personal data to third parties, the receiving Party shall enter into substantially identical data processing agreements in accordance with and to the extent required by this article.

### **16.3**

Upon completion of the Contract, the receiving Party shall, upon written reasonable request by the disclosing Party, return to the disclosing Party all received personal data as well as the results of the processing of such data and shall delete all copies thereof, except for any data retention due to statutory retention obligations. During the performance of the Contract and any applicable additional retention time, the receiving Party shall:

- (i) keep personal data of the disclosing Party protected by state-of-the-art security measures; and
- (ii) restrict access to personal data to trained staff that is committed to appropriate confidentiality obligations.

#### **16.4**

The receiving Party shall not transfer any personal data from or outside the European Economic Area (EEA) without procuring beforehand that any subcontractor enters into and complies with the standard contractual clauses (or such other clause or agreement which may be approved from time to time by the European Commission). All obligations set out in this article 16 shall survive completion or termination of the Contract.

### **17 Confidentiality**

#### **17.1**

The Contract, including all integral parts thereof, is confidential. Any information or documents pertaining to the Contract are also confidential. Without the prior written consent of the other Party, a Party shall not communicate any confidential information to any third party. Group companies of the Parties as meant in section 2:24b of the Dutch Civil Code do not qualify as third parties for the purpose of this confidentiality provision. If a Party communicates confidential information to a third party with the consent of the other Party, it shall ensure that such third party is also bound by this confidentiality provision.

#### **17.2**

The confidentiality obligation in the previous paragraph does not apply in the event that a Party is required by law, by a regulatory authority or a governmental body, or in an administrative or legal procedure, to provide information regarding the Contract. In such an event the relevant Party shall provide only the minimum amount of the required information.

#### **17.3**

The confidentiality obligation as meant in paragraph 17.1 shall remain in force for a period of three (3) years after the Contract was terminated.

### **18 Disputes and applicable law**

#### **18.1**

Dutch law shall apply to the Contract including the General Terms and Conditions.

#### **18.2**

The Parties shall take all necessary steps to settle any disputes arising from or in connection with the Contract. If such a settlement cannot be achieved, any disputes arising from or in connection with the Contract including the General Terms and Conditions shall be brought exclusively before the District Court of Amsterdam.

#### **18.3**

The applicability of the Vienna Sales Convention of 11 April 1980 is hereby expressly denounced.

### **19 Final Provisions**

#### **19.1**

These General Terms and Conditions have entered into effect on 15 november 2018.

#### **19.2**

These General Terms and Conditions are available at [www.omv-Gas.com/nl/services](http://www.omv-Gas.com/nl/services).