

Call for Tender of Fluxys TENP GmbH for Supply of Fuel Gas (Biogas)

Fluxys TENP GmbH (hereinafter referred to as "**Fluxys TENP**") intends to purchase through this transparent, non-discriminatory and market-oriented tender procedure fuel gas in the form of biogas (hereinafter referred to as "**fuel gas**") for the turbo compressor units of the TENP System operated by Fluxys TENP.

The delivery period runs from 1 July 2024, 06:00 hours, to 1 January 2025, 06:00 hours.

The fuel gas should be delivered to Fluxys TENP at the virtual trading point of the market area Trading Hub Europe (THE) (hereinafter referred to as "**VTP THE**").

The total quantity of biogas to be delivered amounts to 19,434,800 kWh. Fluxys TENP is tendering four (4) lots of 4,858,700 kWh each at the above-mentioned delivery point.

The delivery is to be made as a baseload delivery with a flat hourly delivery quantity.

The supplier has the duty that Fluxys TENP receives for the contractual biogas for the entire delivery period proofs of origin and proofs of sustainability which are recognised by the German Emissions Trading Authority (Deutsche Emissionshandelsstelle (DEHSt)) and which enable Fluxys TENP to be exempted from the obligation to provide CO₂ certificates (European Emission Allowances - EUA) as part of the EU ETS for this biogas. The biogas has to meet the following requirements:

- Gas to be delivered under this contract shall be the gases of the second gas family in accordance with the technical rules of the DVGW (Deutscher Verein des Gas- und Wasserfaches e.V.) for the gas quality H-gas, Code of Practice G 260 in the version applicable at the given time. The biogas has been produced exclusively from biomass within the meaning of the Biomasse Ordinance in the version applicable at the given time.
- Biomass means the biodegradable fraction of products, waste and residues of biological origin from agriculture, including plant and animal matter, forestry and related industries, including fisheries and aquaculture, and the biodegradable fraction of waste, including industrial and household waste of biological origin, which must comply with the sustainability requirements/conditions applicable in the delivery year.
- If biogas is to be provided by the supplier in accordance with the agreed product conditions, this must be from a biogas balancing group. The biogas must meet the requirements of the Biomass Electricity Sustainability Ordinance in the version applicable at the given time. This also applies if these requirements deviate from the requirements described in the previous paragraph. The supplier must be able to prove the biogenic nature of the biogas by means of mass balance tracking in the Nabisy system. It must be ensured that the biogas is

eligible for recognition in national and international emissions trading (EUA-exempt). The underlying GHG value for the biogas quality is a maximum of 19.0 g CO₂/megajoule. In the case of biogas produced outside the Federal Republic of Germany, the supplier must submit a booking-out document from the supplying mass balancing system and confirm the mass balancing of the biogas quantities by means of an independent audit.

If the supplier fails to fulfil its obligation to provide Fluxys TENP with proofs of origin and proofs of sustainability for the delivered biogas, in whole or in part, Fluxys TENP shall be entitled to procure a replacement for the proofs of origin and the proofs of sustainability in the form of CO₂ certificates. In this case, Fluxys TENP shall also be entitled to reduce the biogas invoices received from the supplier by the costs incurred for the CO₂ certificates to be procured as a substitute.

Bidders for biogas are requested to insert in the **“Tender Sheet for Fuel Gas – Biogas - baseload delivery” (Annex A)** as price offer for the biogas lots the fixed price of the biogas in €/MWh as well as the price of the proofs of origin in €/MWh and the price of the proofs of sustainability in €/MWh.

To submit an offer for the lots, bidders are kindly requested to fill in the **“Tender Sheet for Fuel Gas – Biogas – baseload delivery” (Annex A)** and to send it to Fluxys TENP as described in Section 2 (ii) of the attached Tender Rules.

General Rules for the Call for Tender of Fluxys TENP GmbH for Supply of Fuel Gas (Biogas) ("Tender Rules")

1. The Tender Procedure

- (i) Fluxys TENP is issuing this call for tender in order to purchase fuel gas in the form of biogas (hereinafter referred to as "**fuel gas**") which is required for the operation of its gas pipeline system in the market area Trading Hub Europe (THE).
- (ii) The tender procedure consists of tender phase and subsequent award procedure for the successful bidder(s).
- (iii) Documents submitted by bidders in connection with the tender will be treated confidentially by Fluxys TENP and will be used only for the purposes of this call for tender.

2. Time schedule of the tender

(i) Prequalification phase

The prequalification phase will start on 14 May 2024 at 14:00 hours and will end on 22 May 2024 at 14:00 hours.

Interested bidders have to submit to Fluxys TENP the creditworthiness proofs specified in Section 3 (i) or (ii) during the prequalification phase. In addition, a current extract from the commercial register and the audited annual financial statements for the last completed financial year are also requested. **This also applies to interested bidders who had successfully prequalified to participate in previous tenders for fuel gas of Fluxys TENP.** Fluxys TENP will give to each interested bidder a feedback to the submitted creditworthiness proofs and by doing this inform him about his eligibility to participate in the tender.

(ii) Tender phase

The tender phase will start at the same time as the prequalification phase on 14 May 2024 at 14:00 hours and will end on 28 May 2024 at 14:00 hours.

Bidders who are eligible to participate in the tender due to their creditworthiness are kindly requested to send the "**Tender Sheet for Fuel Gas – Biogas - baseload delivery**" (**Annex A**) signed by a duly authorized representative by 28 May 2024 at 14:00 hours to Fluxys TENP **by e-mail to each of the following three e-mail addresses:**

- alexandra.moussa@fluxys.com
- daniel.weber@fluxys.com
- Communication.FluxysTENP@fluxys.com .

The offer shall be submitted by e-mail to the aforementioned addresses before the expiry of the tender deadline set in the invitation to tender. Receipt shall be effected by receipt of the e-mail to the e-mail addresses used by Fluxys TENP and shall be confirmed to the bidder by e-mail, including the time of receipt.

Fluxys TENP will send to the bidders a confirmation receipt by e-mail as soon as it has received the **"Tender Sheet for Fuel Gas – Biogas - baseload delivery" (Annex A)** by e-mail.

Offers received after the set deadline will be rejected by Fluxys TENP.

Fluxys TENP is authorised to allow the binding period to elapse without awarding a tender.

(iii) **Award procedure**

Fluxys TENP will inform the successful bidder(s) about the contract award by 28 May 2024 at 14:00 hours at the latest. Fluxys TENP will inform the unsuccessful bidders also by 28 May 2024 at 14:00 hours at the latest.

The contract for one or more lots will be awarded to the offer(s) which is/are commercially the most advantageous offer(s) for Fluxys TENP and which will enable Fluxys TENP to cover its fuel gas needs tendered through the lots. In the event that two bidders quote comparable commercial conditions for the same lot, the contract will be awarded to the bidder who submitted the earlier offer to Fluxys TENP.

The notification of the contract award will be sent to the successful bidder(s) by e-mail.

Bidders selected for the contract award shall be obligated to conclude the "Contract for the Supply of Fuel Gas (Biogas)" on the basis of their respective offers and shall be bound to their offers in this respect. A specimen of the "Contract for the Supply of Fuel Gas (Biogas)" to be concluded is attached to these Tender Rules as **Annex B** and shall be an integral part of these Tender Rules. By submitting an offer, the bidder accepts the terms and conditions of the "Contract for the Supply of Fuel Gas (Biogas)" (**Annex B**).

Upon contract award, the conditions of the "Contract for the Supply of Fuel Gas (Biogas)" (**Annex B**) shall apply.

In case a German bidder is selected for the contract award, Fluxys TENP would prepare only a German version of the "Contract for the Supply of Fuel Gas (Biogas)" (**Annex B**) and would abstain from the preparation of an English version of the "Contract for the Supply of Fuel Gas (Biogas)" (**Annex B**), provided that this bidder agrees.

3. Creditworthiness proofs

(i) In order to be eligible to participate and to submit a successful offer in the tender procedure, the bidder must comply with the creditworthiness requirements of Fluxys TENP. The creditworthiness of the bidder is not sufficient if he submits to Fluxys TENP during the prequalification phase a rating of one of the rating agencies listed below which fails to meet the following minimum requirements:

- a Standard & Poor's long-term rating of BBB- or better,
- a Fitch rating of BBB- (long-term) or better,
- a Moody's long-term rating of Baa3 or better, or,
- a Dun & Bradstreet rating with a Risk Indicator 3 or better,
- a Creditreform rating (credit index score 2.0) of at least risk class II or better (in accordance with Creditreform Rating Map Germany in the currently valid version); or, if risk classes according to Creditreform (credit index score 2.0) are not available for the shipper,
- 235 points or less according to Creditreform (credit index score 2.0).

Furthermore, Fluxys TENP will check publicly available information on the economic standing of the bidder.

(ii) In case the bidder does not have a rating as specified in Section 3 (i) or in case the rating fails to meet the minimum requirements listed in Section 3 (i), the bidder has to submit to Fluxys TENP during the prequalification phase a provision of security as proof for sufficient creditworthiness. Initially it is sufficient that the provision of security is a written confirmation of a bank authorised to do business in the Federal Republic of Germany that it will issue a bank guarantee for the benefit of Fluxys TENP in case of contract award to the bidder. The bank issuing this bank guarantee must have at least a Standard & Poor's long-term rating of A- or a Moody's long-term rating of A3, or it should be part of the German savings and cooperative banks sector.

The amount of the bank guarantee per lot for which the bidder wants to submit an offer is the amount of the maximum monthly contract quantity for one lot priced with the European Gas Spot Index (EGSI) for THE of EEX in €/MWh at the day of the submission of the offer. The EGSI is published on the website of EEX under the following link: <https://www.eex.com/en/market-data/natural-gas>. In case of contract award to the bidder only one bank guarantee is necessary regardless of the number of lots for which the bidder submits an offer. The bank guarantee should be valid until three (3) months after the end of the fuel gas delivery period.

The written confirmation of the bank has to be submitted to Fluxys TENP until the end of the prequalification phase at the latest. The prequalification phase will end on 22 May 2024 at 14:00 hours.

Fluxys TENP kindly asks interested bidders to get in contact early in order to clarify open questions regarding the provision of security.

- (iii) Fluxys TENP will not consider offers which were submitted without sufficient creditworthiness proofs.
In the event that any bidder does not meet the abovementioned creditworthiness requirements of Fluxys TENP, Fluxys TENP shall be entitled to reject such bidder by reason of that fact alone.

4. Miscellaneous

- (i) This call for tender is being conducted in German and English and is subject to German law with the exception of international private law.
- (ii) Fluxys TENP shall make no charge for bidders' participation in the tender procedure. Each party in the tender procedure shall meet its own expenses incurred in that context.

Annex A

Tender Sheet for Fuel Gas - Biogas - baseload delivery

for the delivery period 1 July 2024, 06:00 hours, to 1 January 2025, 06:00 hours

Deadline for receipt of the offers: **28 May 2024, 14:00 hours**

Bidder: _____

E-mail address: _____

We have read, understood and accepted the "Tender Rules" of Fluxys TENP GmbH for the Call for Tender for Supply of Fuel Gas (Biogas).

We hereby submit the following legally binding offer for a biogas baseload delivery in accordance with the "Tender Rules" of Fluxys TENP GmbH:

Delivery point VHP THE	Price offer for Biogas – baseload delivery			
	Lot 1	Lot 2	Lot 3	Lot 4
Fixed price Biogas [in €/MWh]				
Price proofs of origin [in €/MWh]				
Price proofs of sustainability [in €/MWh]				

We hereby agree and acknowledge that the present offer shall constitute a binding offer to enter into a "Contract for the Supply of Fuel Gas (Biogas)" (as attached as **Annex B**) with Fluxys TENP GmbH. The acceptance of our abovementioned offer by Fluxys TENP GmbH leads automatically to the conclusion of such contract. Fluxys TENP GmbH and the bidder will promptly sign the "Contract for the Supply of Fuel Gas (Biogas)" for documentation purposes.

Place, Date

Signature(s) and company stamp

Contract for the Supply of Fuel Gas (Biogas)

- hereinafter referred to as "**Contract**" -

between

Fluxys TENP GmbH
Elisabethstraße 5
D - 40217 Düsseldorf

- hereinafter referred to as "**Fluxys TENP**" -

and

[Supplier]

[address of Supplier]

- hereinafter referred to as "**Supplier**" -

- hereinafter referred to individually as "**Party**" or jointly as "**Parties**" -

Recitals

In the "Call for Tender of Fluxys TENP for Supply of Fuel Gas (Biogas)" (tender period: 14 May 2024 to 28 May 2024), the Supplier has been awarded the contract to supply fuel gas under the conditions mentioned in this Contract.

The Parties to this Contract conclude the following Contract for documentation purposes:

Article 1 Definitions

- (i) For the purposes of this Contract, "**Delivery Point**" shall mean the virtual trading point of the market area Trading Hub Europe (THE) (hereinafter referred to as "**VTP THE**").
- (ii) A "**Working Day**" is any day that is not a Saturday, Sunday or public holiday in one of the 16 German federal states. Any day recognised as a public holiday in any German Federal State shall be deemed to be a public holiday. 24 and 31 December shall always be deemed to be public holidays.

Article 2 Object of the Contract

- (i) Fluxys TENP shall buy and accept and the Supplier shall sell and deliver to Fluxys TENP biogas as fuel gas according to the provisions of this Contract for the delivery period from 1 July 2024, 06:00 hours, to 1 January 2025, 06:00 hours.
- (ii) The Supplier shall hold available the biogas quantity mentioned in Article 3 and deliver it in accordance with the quantity notification described in Article 4 and provide Fluxys TENP for this delivered biogas with proofs of origin and proofs of sustainability which meet the requirements in accordance with Article 5 of this Contract.

The Supplier shall send the complete and correct proofs of origin and proofs of sustainability for the delivery period by the fifteenth (15.) calendar day at the latest of the following month after the end of a quarter to the Nabisy account agreed between the Parties.

- (iii) Fluxys TENP shall take delivery of and pay for the biogas quantities which it has bought in accordance with para. (i) and (ii) and which the Supplier is obligated to deliver as well as the proofs of origin and proofs of sustainability for this biogas quantity.
- (iv) If the Supplier fails to fulfil its obligation to provide Fluxys TENP with proofs of origin and proofs of sustainability for the delivered biogas in accordance with the conditions stated in para. (ii) and in Article 5, in whole or in part until the deadline mentioned in para. (ii), Fluxys TENP shall be entitled, after the fruitless expiry of a grace period of 14 days granted to the Supplier, to procure a replacement for the proofs of origin and the proofs of sustainability in the form of CO₂ certificates.

In this case, Fluxys TENP shall also be entitled to reduce the biogas invoices received from the Supplier by the costs incurred for the CO2 certificates to be procured as a substitute.

Article 3 Contract Quantities

- (i) As a result of the "Call for Tender of Fluxys TENP for Supply of Fuel Gas (Biogas)" (tender period: 14 May 2024 to 28 May 2024), the Supplier has to deliver the following number of lots to Fluxys TENP at the Delivery Point:

[lot(s) biogas]

as specified in the "Tender Sheet for Fuel Gas – Biogas – baseload delivery" submitted by the Supplier and attached as **Appendix 1** to this Contract.

The biogas quantity per lot is 4,858,700 kWh. The delivery of the biogas quantity is to be made as a baseload delivery. The hourly biogas quantity to be delivered is kWh/h.

Article 4 Quantity Notifications

- (i) The quantity notifications shall be made by Fluxys TENP and by the Supplier in the nomination portal of the VTP THE in accordance with the provisions and deadlines applicable there.
- (ii) The initial monthly quantity notification for the following month shall be made in the nomination portal of the VTP THE not later than 14:00 hours of the penultimate Working Day of the current month.

Article 5 Gas Quality

- (i) Gas to be delivered under this contract shall be the gases of the second gas family in accordance with the technical rules of the DVGW (Deutscher Verein des Gas- und Wasserfaches e.V.) for the gas quality H-gas, Code of Practice G 260 in the version applicable at the given time. The biogas has been produced exclusively from biomass within the meaning of the Biomasse Ordinance in the version applicable at the given time.
- (ii) Biomass means the biodegradable fraction of products, waste and residues of biological origin from agriculture, including plant and animal matter, forestry and related industries, including fisheries and aquaculture, and the biodegradable fraction of waste, including industrial and household waste of biological origin, which must comply with the sustainability requirements/conditions applicable in the delivery year.

(iii) If biogas is to be provided by the supplier in accordance with the agreed product conditions, this must be from a biogas balancing group. The biogas must meet the requirements of the Biomass Electricity Sustainability Ordinance in the version applicable at the given time. This also applies if these requirements deviate from the requirements described in the previous paragraph. The supplier must be able to prove the biogenic nature of the biogas by means of mass balance tracking in the Nabisy system. It must be ensured that the biogas is eligible for recognition in national and international emissions trading (EUA-exempt). The underlying GHG value for the biogas quality is a maximum of 19.0 g CO₂/megajoule. In the case of biogas produced outside the Federal Republic of Germany, the supplier must submit a booking-out document from the supplying mass balancing system and confirm the mass balancing of the biogas quantities by means of an independent audit.

Article 6 Price

Fluxys TENP pays to the Supplier for the biogas quantities delivered as a baseload delivery at the Delivery Point in accordance with this Contract the following fixed prices:

Fixed prices Biogas

[,] €/MWh for lot 1
 [,] €/MWh for lot 2
 [,] €/MWh for lot 3
 [,] €/MWh for lot 4

In addition, Fluxys TENP pays the following prices for the proofs of origin and the proofs of sustainability:

Proofs of origin

[,] €/MWh for Lot 1
 [,] €/MWh for Lot 2
 [,] €/MWh for Lot 3
 [,] €/MWh for Lot 4

Proofs of sustainability

[,] €/MWh for Lot 1
 [,] €/MWh for Lot 2
 [,] €/MWh for Lot 3
 [,] €/MWh for Lot 4

All prices are indicated in the "Tender Sheet for Fuel Gas – Biogas – baseload delivery" submitted by the Supplier and attached as **Appendix 1** to this Contract.

The Supplier shall pay all fees, charges, taxes and other costs incurred up to the point where the fuel gas quantities are delivered.

Article 7 Invoicing and Payment

(i) The fuel gas quantities agreed under this Contract and delivered to Fluxys TENP shall be invoiced by the Supplier in the month following the delivery by the third (3.) Working Day at the latest. The invoiced fuel gas quantities shall be deemed to be the fuel gas quantities which the Supplier delivered to Fluxys TENP. In addition to the fixed price for the biogas lots, VAT shall be charged at the rate prevailing

and shall be shown separately. The due date of the invoice for the delivered fuel gas quantities is the twentieth (20.) calendar day after receipt of the invoice by Fluxys TENP.

- (ii) Fluxys TENP shall only be invoiced for the proofs of origin and proofs of sustainability issued by the Supplier for Fluxys TENP for an expired delivery month after receipt of the respective proofs of origin and proofs of sustainability. In addition to the fixed price of the proofs of origin and proofs of sustainability, VAT shall be charged at the rate prevailing and shall be shown separately. The due date of the respective invoice for the issued proofs of origin and proofs of sustainability is the twenty-fifth (25.) calendar day of the month following the month in which the respective invoice was received by Fluxys TENP.
- (iii) All invoices are issued in Euro and the payment of invoices shall be made in Euro.

The invoices shall be transmitted by the Supplier to Fluxys TENP by means of electronic invoicing indicating the account details for the payments.

- (iv) Objections to the correctness of the invoice shall be made immediately, in any case not later than within two weeks after receipt of the invoice. Any objections regarding errors which cannot be recognized by Fluxys TENP through no fault of its own can also be raised after the expiry of the aforementioned deadline immediately after Fluxys TENP has gained knowledge of the reason for the objection. In the event of an obvious miscalculation, the amount shown in the invoice may be adjusted by the amount of the deficiency in question, accompanied by a written explanation of the adjustment made.
- (v) Each Party may offset its undisputed claims or claims which have been validated by due legal process against those claims established under this Contract. Furthermore, the Parties may offset claims under this Contract only against those claims arising from this Contract or other contracts existing between the Parties.

Article 8 Force Majeure

- (i) For the purposes of this Contract, events of Force Majeure are deemed to be all unforeseeable and external events and/or circumstances, which are beyond the sphere of influence of the Party affected and which could not have been avoided applying utmost diligence and which cause a non-fulfilment or a delay in fulfilment of the contractual obligations by the Party affected. Inability of a Party to pay, however caused, shall not be deemed to be Force Majeure.

Such events or circumstances of Force Majeure shall include particularly any of the following events: act of God, natural disasters, terrorist attacks, power failure, failure of telecommunications connections, strikes, lock-outs and/or labour disputes, suspension or withdrawal of any consent, legal provisions or measures by governments, courts or authorities, irrespective of whether such measures are lawful and any breakage or breakdown of pipelines and/or of the installations which are directly or indirectly used for production and transportation of natural gas. Strikes, lock-outs and/or labour disputes are deemed to be events of Force Majeure if the Party affected did not cause these events through an unlawful act

and as long as the Party affected can only achieve their settlement under unreasonable conditions for the Party affected.

- (ii) The Party affected by Force Majeure shall notify the other Party immediately thereof and shall provide the other Party with details on the expected duration and on the cause of the disruption. The Party affected by Force Majeure shall promptly take all technically feasible and economically viable steps to resume the performance of its obligations as soon as possible. The Parties are obligated to ensure the fulfilment of this Contract with all technically possible and economically reasonable measures.
- (iii) If a Party is prevented from performing or fulfilling its contractual obligations due to Force Majeure in accordance with this Article 8, said Party shall be released from its contractual obligations. The other Party shall be released from its corresponding contractual obligations to the extent and as long as said first Party is prevented from performing its contractual obligations due to Force Majeure. Either Party may terminate this Contract if the event of Force Majeure lasts for a continuous period of at least ninety (90) Days.

Article 9 Liability

The liability of the Parties shall be in accordance with the law.

Article 10 Term and Termination

- (i) This Contract shall enter into force with retroactive effect on contract award. It conclusively documents the mutual rights and obligations of the fuel gas delivery by the Supplier on the basis of the successful offer in the call for tender of Fluxys TENP for supply of fuel gas. This Contract shall end at the end of the delivery period without notice having to be given.
- (ii) Notwithstanding para. (i), this Contract may be terminated with immediate effect only for reasonable cause. The infringement of a major obligation under this Contract by one of the Parties shall constitute reasonable cause. This Contract may also be terminated with immediate effect in the event of repeated infringements of this Contract.
- (iii) Fluxys TENP shall also be entitled to terminate the Contract with immediate effect if an admissible application for the opening of insolvency proceedings against the assets of the Supplier has been filed.
- (iv) Notice of termination shall not be valid unless made in writing.

Article 11 Confidentiality

- (i) The Parties are obligated to treat as confidential and in compliance with the applicable data protection laws, in particular EU GDPR (EU General Data Protection Regulation), all the information received in connection with this Contract. This does not apply to that information which is either in the public domain or which is bound to be disclosed by way of a legal provision or an order issued by a court of law or public authority.
- (ii) The Parties shall treat as confidential the content of this Contract and all information which they obtain in connection with said Contract (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 other Party. The Parties undertake to use the Confidential Information obtained exclusively for the purpose of performing this Contract.
- (iii) Either Party shall be entitled to disclose, without the written consent of the other Party, any Confidential Information obtained from the other Party to the extent that this Confidential Information
 - was legitimately known to the Party receiving the information at the time it was obtained from the other Party;
 - was already in the public domain or becomes publicly available other than through an act or omission of the receiving Party; or
 - has to be disclosed by a Party due to a legal provision or an order issued by a court of law or public authority; in any such case, the disclosing Party shall inform the other Party thereof without undue delay.
- (iv) Confidential Information may be disclosed by a Party (hereinafter referred to as "**Disclosing Party**") to an affiliate of the Party in accordance with Article 15 German Stock Companies Act (Aktiengesetz) without the prior written consent of the other Party, provided that such affiliate shall be obligated to keep such information confidential on the same terms as set forth herein and provided further that the Disclosing Party shall remain responsible for any breach of said obligation.
- (v) The confidentiality obligation shall remain in force for a period of five(5) years beyond expiry or termination of this Contract.
- (vi) Section 6a of the German Energy Industry Act (EnWG) shall remain unaffected.

Article 12 Written Form

- (i) All declarations, notifications of natural gas quantities or other notifications mentioned in this Contract shall be made in writing. Provided that the other Party agrees, such declarations, notifications of natural gas quantities or other notifications may also be made by electronic data transfer (e.g. e-mail) or by phone.

- (ii) Any subsidiary verbal agreements shall be deemed null and void. Unless otherwise agreed hereinabove, any amendments or additions to this Contract as well as the termination or cancellation of this Contract shall not be valid unless made in writing. Any waiver of this written form requirement shall likewise not be valid unless made in writing.

Article 13 Assignment

Each Party shall be entitled to assign its rights and/or obligations under this Contract only subject to the prior written consent of the other Party. Said consent shall not be unreasonably withheld.

Article 14 Severability

- (i) If individual provisions of this Contract are or become legally ineffective or impracticable, the effectiveness of the other provisions and the existence and the duration of this Contract shall not be affected or impaired thereby.
- (ii) In this case, the Parties will replace the legally ineffective or impracticable provision(s) of this Contract with effect from the time of the legal ineffectiveness or impracticability of the provision(s) by (a) different provision(s) which comes closest to the original provision(s) regarding its economic success and its purpose.
- (iii) Para. (i) and para. (ii) apply accordingly for unconscious regulation gaps in this Contract.

Article 15 Changes in Circumstances

- (i) If unforeseeable circumstances occur during the term of this Contract which have considerable economic, technical or legal effects on this Contract but which were not contemplated herein or could not reasonably have been taken into account at the time of execution of this Contract, the Parties may request an amendment of the Contract to the extent that it would be unreasonable for the requesting Party to fulfil or perform a particular provision of this Contract.
- (ii) The request shall indicate the grounds on which it is based and the suggested amendment of the Contract.
- (iii) The request for amendment shall be submitted to the other Party within a reasonable time from the moment the requesting Party becomes aware of the circumstance and of its effects on the performance of the Contract. The Parties shall then consult one another in order to revise the Contract on a fair basis.

Article 16 Contacts

The contacts for the communication under this Contract shall be the following:

For Fluxys TENP:

Fluxys TENP GmbH
Alexandra Moussa
Commercial Operator
Elisabethstraße 5
D - 40217 Düsseldorf
Phone No.: +49 211 420909 25
Mobile Phone No.: +49 172 7328227
Fax No.: +49 211 420909 11
E-mail address: alexandra.moussa@fluxys.com

For the Supplier:

[Supplier]
[Contact person]
[Position]
[Street]
[Postal code, town]
[Phone No.]
[Mobile Phone No.]
[Fax No.]
[E-mail address]

Article 17 Applicable Law and Arbitration

- (i) Any disputes arising out of this Contract shall be exclusively and finally settled by a court of arbitration.
- (ii) The court of arbitration shall be made up of three arbitrators, one of whom shall act as chairman of the court of arbitration. The chairman shall be fully educated and trained to be a judge. The court of arbitration shall be formed by the Party instituting arbitration proceedings describing the matter in dispute, appointing an arbitrator and calling upon the other Party to appoint a second arbitrator, and the two named arbitrators then selecting the chairman. If either Party fails to appoint an arbitrator within a period of four (4) weeks, the Party that instituted the arbitration proceedings shall be entitled to ask the president of the relevant court to propose a second arbitrator. The proposal shall be binding on both Parties. If the arbitrators have not selected the chairman within a period of four (4) weeks, either Party shall be entitled to ask the president of the relevant court to propose a chairman. The proposal shall be binding on both Parties.
- (iii) The venue for any arbitration proceedings shall be Düsseldorf.

- (iv) The court of jurisdiction pursuant to Section 1062 of the German Code of Civil Procedure (Zivilprozessordnung) shall be the Düsseldorf Higher Regional Court. The language for the arbitration proceedings is the German language. In all other respects, Sections 1025 to 1065 of the German Code of Civil Procedure (Zivilprozessordnung) shall apply to the arbitration proceedings.
- (v) This Contract and its interpretation shall be exclusively governed by German law. The laws on the International Sale of Goods, particularly the United Nations Convention on Contracts for the International Sale of Goods (CISG), shall not apply.
- (vi) For this agreement the German wording shall be decisive. In case of any inconsistencies between the German and the English wording, the German wording shall therefore prevail.

In witness thereof, this Contract has been duly executed in two (2) originals.

Place, Date

Place, Date

Fluxys TENP GmbH

(Supplier)

**Appendix 1 (Copy of the “Tender Sheet for Fuel Gas – Biogas – baseload delivery”
received from the Supplier)**