

**Participation Agreement for carrying out the Market Making Activity referred to in  
Article 27 of the Natural-Gas Market Rules**

**BETWEEN**

Gestore dei Mercati Energetici S.p.A., with registered office in Viale Maresciallo Pilsudski n.  
122/124, 00197 Rome, Fiscal Code and VAT No. 06208031002 ("GME"),

**AND**

..... the company/other .....

(first name/last name)

(company name)

resident/registered office in ....., Prov. ...., .....,

(address)

Fiscal Code....., VAT No. ...., in the person of

....., as .....(hereinafter: Contractor);

GME and the Contractor, hereinafter referred to as "the Party" and collectively as the "Parties",

**GIVEN THAT**

- A. GME is a joint-stock company established under Article 5, paragraph 1 of Legislative Decree no. 79 of 16 March 1999 - which is entrusted, inter alia, pursuant to Article 30, paragraph 1, of Law no. 99 of 23 July 2009 (hereinafter Law 99/09), with the exclusive economic management of the natural-gas market (hereinafter: the Market);
- B. GME has provided the Natural-Gas Market Rules, approved, pursuant to art. 30, paragraph 1, of Law 99/09, with Decree of the Minister of Economic Development of 6 March 2013, as subsequently amended and supplemented, which replaces in full, in accordance with the Decree of 9 August 2013, the provisions of the Natural-Gas Market Rules, approved, pursuant to art. 30, paragraph 2, of Law 99/09, by the Ministry of Economic Development, after consultation with the Authority for Electricity, Gas and Water on 26 November 2010, as subsequently amended and supplemented (hereinafter: Rules);

- C. Pursuant to Article 27, paragraph 27.2 of the Rules, the participants interested in carrying out the *Market Making* activity shall submit a specific request to GME, in accordance with the terms and conditions set forth in the Technical Rules;
- D. Pursuant to the Technical Rules referred to in art. 27, paragraph 27.2 of the Rules, the participant interested in carrying out the *Market Making* activity shall submit to GME a signed copy of the Participation Agreement for carrying out of the Market Making activity referred to in Article 27 of the MGAS Rules (hereinafter "Agreement");
- E. The *Market Making* activity and the economic conditions granted to the Contractor are regulated by the relevant Technical Rules;
- F. The Contractor is the Market Participant;
- G. Pursuant to and for the purposes of the Rules, GME is the counterparty of the market participants;
- H. For any item not covered by this Agreement, including the terms and definitions used, the provisions of the Rules and Technical Rules shall be applied.

THAT BEING SAID

The parties hereby agree as follows.

### ***Article 1***

#### ***Subject of the agreement and validity of the preamble***

- 1.1. This Agreement defines the rights and obligations of the Parties in relation to the *Market Making* activity with respect to the products (each "Product" and, collectively, the "Products") selected in the "Product Selection Form" referred to in the relevant Technical Rules (hereinafter: Form).
- 1.2. If the Contractor intends to add or remove one or more Products, he/she must duly fill in and send to GME, to the address provided in the following Article 10, the original copy of the the Add/Edit Product Form referred to in the relevant Technical Rules (hereinafter: Add/Edit Product Form), duly signed by the legal representative of the Contractor.
- 1.3. Unless otherwise provided in this Agreement, all the provisions of the Rules, Technical Rules and the Market Participation Agreement referred to in Article 13, paragraph 13.1, subpara. b) of the Rules, shall remain valid and binding.

- 1.4. The preamble of this Agreement forms an integral part thereof.

## **Article 2**

### ***Obligations of the Contractor***

- 2.1. The Contractor shall:

a) comply with the Rules and Technical Rules and stay current on amendments to such acts. It is understood that, if the Contractor does not intend to accept any modification or addition to the Rules and to the Technical Rules, the Contractor shall have the right to terminate this Agreement by sending a written letter with acknowledgment of receipt and to the address indicated in following Article 10. After fifteen days from the legal disclosure of such amendments and additions, without the Contractor's intention to terminate this Agreement, the changes themselves will be deemed tacitly accepted. Trades on the Market, under this Agreement, during the abovementioned time shall be understood as implicit acceptance of the new terms. However, under no circumstances may such changes represent reasonable ground for the breach of the Contractor's obligations on the Market;

b) adopt technological systems to carry out the *Market Making* activities compatible with GME's computer system and update them in the event of GME's modifications to the computer system itself;

c) adopt appropriate technological systems for carrying out business activities related to the invoicing of payables/receivables of the Market, compatible with the GME's computer system and capable of ensuring the correct, timely and safe exchange of data and information transmitted by means of computer systems, in the manner and within the terms set forth in the Rules and Technical Rules;

d) provide staff with adequate professionalism and skills in the use of the technological systems referred to in points (b) and (c) above;

e) promptly notify GME of any inconvenience or operational anomaly, or any circumstance, condition or fact affecting or that may affect, in full or in part, the proper carrying out of the *Market Making* activity;

f) adhere to the invoicing and payment system for the carrying out of the *Market Making* activity, referred to in the relevant Technical Rules;

g) indemnify and hold GME harmless against any damages or costs that may have been suffered, even as a result of acts promoted by a third party, as a consequence of acts or conduct of the Contractor, as well as by any auxiliaries, agents and associates, in violation

of this Agreement, the Rules, the Technical Rules, and any other legislative or regulatory provisions, or acts and measures issued by GME or by competent authorities.

### **Article 3**

#### ***Fulfillment criteria of the Market Making activity***

- 3.1. In order to carry out the Market Making activity, the Contractor, for each Product selected in the Form, undertakes to carry out this activity in accordance with the provisions of the Technical Rules.

### **Article 4**

#### ***GME performance***

- 4.1. GME will perform the provisions of this Agreement in compliance with the same Agreement, the Rules and the Technical Rules.
- 4.2. GME shall provide the Contractor with the necessary collaboration to enable the Contractor to access the GME's computer system in compliance, in particular, with the provisions of the Technical Rules. It is understood that the performance of the activities and the provision of the tools required for the access are of exclusive responsibility and will be entirely borne by the Contractor.
- 4.3. GME may modify the technical, functional, administrative and operational modalities of the *Market Making* activity, as a result of modifications or additions to the Rules or to the Technical Rules.
- 4.4. GME undertakes to verify that the Contractor has complied with the obligations set out in Article 3 above for the purposes referred to in Article 5 below.
- 4.5. GME undertakes to promptly notify the Contractor of any inconvenience or operational anomaly, or any circumstance, condition, or event that affect or may affect, in full or in part, the proper carrying out of the *Market Making* activity.
- 4.6. GME undertakes to promptly notify the temporary suspension of the *Market Making* activity on each product for which the Contractor has undertaken to perform such activity, in the cases specified in the relevant Technical Rules.

- 4.7. It is understood that GME may identify specific mechanisms aimed at taking into account any suspension, including partial, or cancellation of a market session, in order to enhance the *Market Making* activity carried out by the Contractor, as provided for in the relevant Technical Rules.
- 4.8. GME and the Contractor shall acknowledge that GME shall not be liable for any failure or malfunction of telecommunication lines (e.g. telephones) and Internet connection.
- 4.9. The Contractor acknowledges that GME has the right to use third parties designated by GME for the purposes of this Agreement, provided that the contractual relationship is in any case solely between the Contractor and the GME.
- 4.10. GME undertakes to provide the Contractor with all information relating to the Market Making activity.
- 4.11. Except as provided for in paragraph 4.12 below, GME's obligations under this Article 4 are obligation of care and skills and not obligation to achieve results.
- 4.12. GME undertakes to indemnify and hold GME harmless against any damages or costs that may have been suffered, even as a result of acts promoted by a third party, as a consequence of acts or conduct of the Contractor, as well as by any auxiliaries, agents and associates, for the carrying out of activities provided for by this Agreement in violation of this Agreement, the Rules, the Technical Rules, and any other legislative or regulatory provisions applicable to the same Agreement.

## ***Article 5***

### ***Fees granted by GME***

- 1.1. If the Contractor has carried out the Market Making activity in accordance with the criteria set forth in the relevant Technical Rules, GME grants the Contractor with fees, whose structure and amount are defined in the relevant Technical Rules.
- 1.2. The invoicing and payment of the fees referred to in the previous paragraph 5.1 shall be made in accordance with the terms and conditions set out in the relevant Technical Rules.

## ***Article 6***

### ***Limitation of liability, force majeure and accident***

- 6.1. Except as provided for in the Rules, when carrying out the activities under this Agreement, GME is liable for any contractual and non-contractual damages provided that these represent immediate and direct consequence of its conduct caused by gross negligence or guilt and, in the latter case, only if they are foreseeable at the date of this Agreement. The Parties mutually agree that there will be no compensation or indemnification obligation for damages that are an indirect or unforeseeable consequence of GME's conduct, including, but not limited to, damages resulting from the loss of business/customer opportunity or loss of profits.
- 6.2. The Contractor shall be obliged to inform GME of any claim for compensation for the performance of the activities referred to in this Agreement within and not later than fifteen working days from the date on which the Contractor knew or should have known, resorting to the due diligence, the occurrence of the harmful event, providing at the same time a precise indication of the circumstances in which the harmful event and the damage occurred. The relevant supporting documentation must be notified to GME within and not later than twenty working days from the day the Contractor knew or should have known, resorting to the due diligence, of the occurrence of the harmful event.
- 6.3. There shall be no liability of the GME and of the Contractor for default due to force majeure, accidents, or events beyond their control, such as for example, wars, riots, earthquakes, floods, fires, strikes, power failures or failures in the system dedicated to data transmission lines forming part of the computer system, when such interruptions are attributable exclusively to the behavior of third parties.
- 6.4. In cases of force majeure and accident, and in general in all cases where the Contractor's activity is potentially detrimental to the integrity or safety of the computer system, GME may suspend access to the computer system without the need for prior notice about the circumstances that have caused the suspension.

## ***Article 7***

### ***Duration and effectiveness of the Agreement***

- 7.1 This Agreement shall be deemed concluded with the Contractor's signature and with consequent receipt, in original copy, by GME and has an indefinite duration. The effectiveness of the Agreement is subject (i) to GME's positive verification of the completeness and correctness of the documentation sent by the Contractor and of the presence of the requirements for the carrying out of the *Market Making* activity and (ii) to

the first activation of the *Market Making* activity in compliance with the provisions of the relevant Technical Rules. GME will notify the Contractor of the result of the **sub (i) above**, in compliance with the procedures and time limits provided for in the Technical Rules.

- 7.2 Failure to reach the minimum number of Liquidity Providers (LP participants), under this Agreement, established in the relevant Technical Rules, the *Market Making* activity and the related obligations of the Parties set forth in this Agreement will remain suspended until the minimum number of LPs is reached and, in any event, without prejudice to the Contractor's right to terminate this Agreement pursuant to the following Article 8.1.
- 7.3 In the event that, under this Agreement, the maximum number of LPs defined in the relevant Technical Rules is exceeded, the *Market Making* activity and the related obligations of the Parties set forth this Agreement may be suspended at the sole discretion of GME on the basis of the criteria set out in the aforementioned Technical Rules and, in any event, without prejudice the Contractor's right to terminate this Agreement pursuant to Article 8.1 below.
- 7.4 The Agreement, as well as any additional cases expressly provided in the Agreement, will cease to have any effect in the event of total deactivation of the *Market Making* activity, including due to amendments in the applicable rules.

## **Article 8**

### ***Termination and withdrawal***

- 8.1 In addition to the provisions of Article 7 of this Agreement, the Contractor may withdraw from the Agreement at any time upon written notice to GME at least 30 working days from the date on which the withdrawal becomes effective, to be sent by registered letter with acknowledgment of receipt and to the address indicated in the following Article 10.
- 8.2 The Agreement will be deemed automatically terminated, without the need for any notification, in the event of (i) any loss by the Contractor, for any cause, of the qualification of Participant, as acquired pursuant to the Rules; (ii) total or partial closure of one or more markets of the Market for which the Contractor carries out the *Market Making* activity under this Agreement; (iii) termination of the trading of one or more Market Products for which the Contractor carries out the *Market Making* activity under this Agreement. It is understood

that GME's total or partial closure of one or more (but not all) markets of the Market, or the cessation of the trading of one or more Market Products for which the Contractor carries out the *Market Making* activity, will be a reason for automatic termination of the activity performed in the market subject to total or partial closure, or of the Product whose trading is over.

- 8.3 GME may withdraw from the Agreement at any time by prior written notice to the Contractor by registered letter with acknowledgment of receipt and to the address referred to in Article 10, at least 5 (five) working days from the date on which the withdrawal becomes effective.
- 8.4 The termination of the Agreement for any cause shall in no way affect any other right to which a Party is entitled under this Agreement or any applicable law of general application, nor shall it affect any right or obligation of a Party that has already arisen as of the date of termination.

## **Article 9**

### ***Variations, tacit acceptance and resolute condition***

- 9.1 GME may modify the Agreement, also due to changes or additions to the Rules or Technical Rules or regulatory changes. In that case, except as provided for in Article 8.2 (ii) and/or 8.2 (iii) above, GME undertakes to notify the proposal of unilateral amendment of the Agreement by registered mail with acknowledgement of receipt or other means suitable to confirm receipt of the contract by the Contractor, and to publish the relevant notice on its website. It is understood that, if the Contractor does not intend to accept such changes, the Contractor shall have the right to terminate this Agreement pursuant to the provisions of Article 8.1 above. After 15 (fifteen) days of receipt of the unilateral amendment to the Agreement, without the Contractor having notified GME of its intention to terminate this Agreement, the same changes shall be deemed to be tacitly accepted. If the Contractor carries out *Market Marketing* activity - after the receipt of the notice of changes to the Agreement and after the above time limit of 15 (fifteen) days, it will be deemed as implicit acceptance of the changes. However, under no circumstances shall such changes represent grounds for the breach of the Contractor's obligations under this Agreement.
- 9.2 In the event that the unilateral amendments to the Agreement were subject to the specific written approval in order to become effective, GME will send the notice referred to in Article 9.1 above, accompanied by the contract documentation which is to be specifically signed and submitted to GME by registered mail with acknowledgement of receipt. Without prejudice to the right of withdrawal of the Contractor pursuant to Article 9.1 above, failing to



submit the written approval to GME by the Contractor within the time limit of 20 (twenty) calendar days upon receipt by the Contractor of the notification sent by GME, will result in the termination of this Agreement. The termination will be effective following the previously mentioned time limit of 20 (twenty) calendar days. If the unilateral change of the Agreement subject to the formalities of the specific written approval in order to be effective, only concerns the changes of one or more Products, the absence of specific written approval in the terms and in the manner referred to in this paragraph, will result in the sole termination of the Product(s) subject to change.

- 9.3 In the event that, following the conclusion of the Agreement, new additional Products (“Additional Products”) for which the *Market Making* activity is carried out have been made available, GME undertakes to notify the availability of Additional Products by publishing the relevant notice on its website. If the Contractor wishes to select one or more Additional Products, he/she shall follow the procedure provided for in Article 1.2 above.

## **Article 10**

### **General clauses**

- 10.1 The invalidity or nullity of one or more clauses of this Agreement will not compromise the validity of the remaining clauses, which shall in any case remain in full force and effect.
- 10.2 This Agreement and the rights and obligations arising out of it by the Parties may not be transferred to third parties except as expressly provided in this Agreement.
- 10.3 Without prejudice to the provisions of Article 6, paragraph 6.2, the failing or delayed exercise of one of the rights attributable to a Party under this Agreement shall not be considered to be a waiver of such rights.
- 10.4 Except as provided for in Article 2, paragraph 2.2, subpara. a), any amendment to the Agreement shall be made in writing.
- 10.5 For the purposes of this Agreement, each Party confirms its actual domicile in the Market Participation Agreement referred to in Article 13, paragraph 13.1. b) of the Rules.
- 10.6 Except as otherwise provided in this Agreement, any communication or notification to be made under the same Agreement must be made in writing and delivered in person, either by courier or by registered letter with acknowledgment of receipt or by fax, or by e-mail with acknowledgment of receipt, to the addresses indicated by each Party in the Market Participation Agreement referred to in Article 13, paragraph 13.1.subpara. b) of the Rules.

10.7 Communications shall be deemed to have been received on the date of the subscription of the acknowledgment of receipt if they are delivered in person, that is when they arrive at the address of the recipient if they are sent by registered letter with acknowledgment of receipt or on the date acknowledgment of delivery of the device, if sent by telefacsimile, or on the date of receipt of the received message, if sent by e-mail.

**Article 11**

**Applicable Law**

11.1 This Agreement is regulated by the Italian Law.

**Article 12**

**Disputes**

12.1 Without prejudice to the provisions of Article 12, paragraph 12.2 below, any dispute that may arise between GME and the Contractor in connection with this Agreement shall be settled in accordance with the provisions of Title VI of the Rules, which are hereby incorporated and transcribed.

12.2 In any case, the courts of Italy have exclusive jurisdiction for disputes arising from the non-payment, even partial, of the fees referred to in Article 5 above.

**Article 13**

**Privacy**

13.1 Pursuant to EU Regulation 679/2016 and subsequent amendments and additions, the personal data indicated in this Agreement will be processed by GME in relation to its execution, to the conclusion and execution of the related relationships and services and for all the relevant regulatory obligations, in order to guarantee the confidentiality and safety of the same data, according to the provision of the statement provided pursuant to articles 13-14 of the aforementioned EU Regulation 679/2016 and published on the GME website. The Contractor acknowledges the above statement and the processing provided therein.

The Contractor

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The following clauses of the Agreement are hereby expressly approved, pursuant to and for the purposes of Articles 1341 and 1342 of the Civil Code: 2.1 (f) (indemnity of the Contractor), 4.8 (Exclusion of Liability), 6.1 (Limitation of GME's liability) 6.2 (termination), 6.4 (suspension), 7 (contract duration and effectiveness), 8.2 (resolution condition), 8.3 (GME withdrawal), 9.1 (variations and tacit assent), 9.2 (resolution condition), 11 (applicable law), 12.1 and 12.2 (Disputes).

