

Invitation to tender for fuel gas supply from 01.10.2013 until 01.04.2014 (Fuel Gas Tender)

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Annexes to the Fuel Gas Tender:

Annex 1:	Declaration Form
Annex 2:	Unilateral Binding Offer Fuel Gas (Bid Form)
Annex 3:	Contract for the Supply of Fuel Gas (including Appendices)

1. General Information

- 1.1. Baumgarten–Oberkappel Gasleitungsges.m.b.H (hereafter referred to as “BOG”) is operator of the WAG Pipeline System running from the Slovakian-Austrian border near Baumgarten an der March to the German border near Oberkappel.
- 1.2. In line with the Austrian Gas Natural Act 2011, the Entry/Exit regime in Austria and the Gas System Charges Ordinance 2013, as last amended, BOG will procure fuel gas for the operation of the compressor stations in the WAG Pipeline System. The procurement of above mentioned fuel gas will be executed in a market-oriented, transparent and non-discriminatory manner.
- 1.3. The purpose of this document is to provide information and establish the rules and procedure by BOG for tendering and contracting the fuel gas supply for the WAG pipeline system (hereinafter referred to as “Conditions of Tender”). Tender will take place in the period from 19 August 2013 until 9 September 2013. The Declaration Form (as per **Annex 1**) has to be submitted until 2 September 2013, 17:00 (CET) and the bids have to be submitted until 9 September 2013, 17:00 (CET) (hereinafter referred to as “Bid Due Date”)
- 1.4. BOG intends to buy fuel gas required at the Delivery Point VTP-CEGH for the delivery period from 01.10.2013, 06:00 (CET) to 01.04.2014, 06:00 (CET).
- 1.5. Any interested bidder shall submit to BOG a Declaration Form (as per **Annex 1**) until 2 September 2013, 17:00 (CET) at the latest and to a public notary, as indicated later on, in a sealed envelope a **Unilateral Binding Offer Fuel Gas** for the conclusion of a fuel gas supply contract with BOG (as per **Annex 2**). Any bidder shall be aware that the Conditions of Tender shall govern the process as set out and shall describe in a binding way the process of the tendering as well as the contracting procedures and establish the rules to be applied in accordance with the following annexes:
 - Annex 1: Declaration Form
 - Annex 2: Unilateral Binding Offer Fuel Gas (Bid Form)
 - Annex 3: Contract for the Supply of Fuel Gas (including Appendixes)
- 1.6. Documents submitted by bidders in connection with this tender will be treated confidentially by BOG and will be used only for the purposes of this invitation to tender.
- 1.7. BOG shall charge no fee for bidders' participation in the tender procedure. Each party in the tender procedure including each bidder shall bear its own costs and expenses incurred in that context.

2. Subject of Bids and the Contract to be awarded in the Course of this Tender

- 2.1. The subject is the provision of gas by the bidder at the Delivery Point (VTP- CEGH).
- 2.2. For the period 01.10.2013, 06:00 (CET) to 01.04.2014, 06:00 (CET) the tendered product is composed of one lot and is specified as follows:
- Minimum Monthly Contract Quantity to be supplied to BOG will not be less than 150 MWh for each month in the entire delivery period
 - Maximum Monthly Contract Quantity to be supplied to BOG will not exceed 7,920 MWh for each month in the entire delivery period.
 - Maximum Hourly Contract Quantity to be supplied to BOG will not exceed 22 MWh/h for each hour in the entire delivery period.

For further details, please refer to the Contract for the Supply of Fuel Gas, which is attached as Annex 3.

- 2.3. BOG reserves the right to change these Conditions of Tender unilaterally. Any changes of the rules and procedure which may be required at short notice will be announced to bidders.

3. Contact

BOG will publish the Fuel Gas Tender on the website of BOG (www.bog-gmbh.at). In case of questions or a wish to transfer documents in an electronic manner or via registered mail please contact:

Baumgarten-Oberkappel Gasleitungsgesellschaft mbH
Subject: Fuel Gas Tender
Floridsdorfer Hauptstrasse 1
1210 Vienna
Austria
Tel: +43 (1) 2710492 –600
Fax: +43 (1) 2710492 –679
or mail to: rfp@bog-gmbh.at

4. Provision of Security

- 4.1. BOG shall require the awarded bidder to furnish collateral for the latter's supply obligations under the **Contract for the Supply of Fuel Gas** (hereafter referred to as "Contract") in accordance with **Annex 3**. The collateral in form of a bank guarantee shall be furnished after the contract award and shall be submitted together with the Contract signed by the awarded bidder. In the event an awarded bidder fails to enter into the Contract and does not fulfil its obligations according to these provisions or to do so in a timely manner or does not furnish collateral in the required amount the



Unilateral Binding Offer Fuel Gas of the awarded bidder shall become null and void with immediate effect.

5. Submission of Unilateral Binding Offers Fuel Gas

- 5.1. Any interested bidder shall download the **Unilateral Binding Offer Fuel Gas (Annex 2)** from the BOG-website, fill in, duly sign and return it to the public notary until the Bid Due Date and at the same time shall provide additional information according to Annex 1 to BOG directly. Bidders shall make their offer for the conclusion of a Contract solely by means of the appropriate Unilateral Binding Offer Fuel Gas (Annex 2). By submitting a bid, the bidder accepts the terms and conditions of the **Contract for the Supply of Fuel Gas** as attached as **Annex 3**.
- 5.2. The bid must consist of the completed and signed tender documents and all documents shall be submitted in a sealed envelope indicating the name and address of the bidder and being marked with

Confidential: BOG - Binding Offer for the Supply of Fuel Gas

addressed to

Öffentliche Notare Kaindl, Dürr, Schuller-Köhler & Partner Notarpartnerschaft
Donaustadtstraße 1/3. Stock
DONAUZENTRUM - Bürohaus/Ärztezentrum
1220 Wien
Attention: Dr. Thorsten Antenreiter

- 5.3. Bids received later than 09.09.2013, 17:00 (CET) will not be considered as binding by BOG. Bids received by e-mail or fax will also not be considered as binding bids by BOG.
- 5.4. The bidders shall use solely the patterns provided by BOG via the website. BOG will take only completely and correctly filled in, duly signed offers into consideration. The bidder is responsible for the accuracy and completeness of all information, documents and evidence. Any incomplete or erroneous documents will not be considered by BOG. BOG shall not be liable for any mistakes derived from a wrong completion of the offer form.
- 5.5. After the Bid Due Date, bidders shall not be entitled to make any changes to the offers which they have submitted.
- 5.6. BOG reserves the right in its sole discretion to stop the tender procedure at any time before or after the receipt of bids. BOG will make such decision public by way of its web- site and by way of written direct information to bidders in case such decision by BOG is made after receipt of the bids. In any case BOG is not obliged to accept any bid submitted by one or more bidder(s) in accordance with these Conditions of Tender.

6. Acceptance of Unilateral Binding Offer Fuel Gas

- 6.1. BOG will inform successful bidder(s) via e-mail as soon as the bids are evaluated and shall receive an e-mail confirmation by the successful bidder(s) on the same day for verification reasons. Any such confirmation shall not affect the validity of the bids submitted or contract award.
- 6.2. The Contract will be awarded to the bidder submitting the most economical bid. The sole criterion for contract award will be the lowest price, if all other information and requirements are met.
- 6.3. If all other information and requirements are not met by the bidder with the lowest price, the bidder with the second lowest price shall be awarded, if all other information and requirements are met by the bidder with the second lowest price. This principle shall be applied accordingly until the bidder with the most economical bid in ranking – meeting all other information and requirements – can be awarded.
- 6.4. In the event that more than one bidder quotes the same price for the specified product, the Contract will be awarded to the bidder which submitted the bid earlier. The timestamp of the acceptance by the public notary (courier acceptance) shall be considered for the time log.
- 6.5. Bidder(s) whose bid(s) are accepted by BOG shall be obliged to conclude the **Contract for the Supply of Fuel Gas** (as per **Annex 3**) on the basis of their respective bids for documentary purposes. A form of the Contract for the Supply of Fuel Gas to be signed shall be an integral part of these Conditions of Tender.

The Contract shall be signed and submitted by the awarded bidder and also the security has to be provided to BOG not later than 18.09.2013. Upon contract award, the conditions of the Contract for the Supply of Fuel Gas shall apply.

In case the awarded bidder(s) do not submit the Contract and/or do not provide full security in time BOG shall be entitled to award next ranked bidder(s).

- 6.6. BOG will inform non-awarded bidders.

7. Amendments

Any amendments to these Conditions of Tender, including such amendment waiving the requirement for amendments to be in writing, shall be invalid unless made in writing.

8. Applicable Law and Language

- 8.1. This invitation to tender shall be governed by and construed in accordance with the substantive laws of Austria excluding its rules and regulations governing conflict of laws and the UN Convention on the International Sale of Goods.
- 8.2. The process shall be conducted in English language.



8.3. All correspondence as well as all documents in relation to the Process shall be performed in English language.



Fuel Gas Tender
Annex 1
DECLARATION FORM

Deadline for receipt by BOG: 2 September 2013, 17:00 (CET)

Interested bidder shall express its interest to participate in the tendering process and shall declare to submit its bid according to the Conditions of Tender.

Please fill in this Declaration Form in capital letters only.

Send to: Baumgarten-Oberkappel Gasleitungsgesellschaft m.b.H.
floridotower
Floridsdorfer Hauptstrasse 1
1210 Vienna

Facsimile: +43 (1) 2710492 - 679
[mailto: rfp@bog-gmbh.at](mailto:rfp@bog-gmbh.at)

Bidders's legal name: _____

Registration number: _____

Bidders's principal place of business:

Bidder's contact person: _____

Telephone: _____

Facsimile : _____

E-Mail Address: _____

Bidder's business address:



Fuel Gas Tender

Annex 2

UNILATERAL BINDING OFFER FUEL GAS

(Bid Form on bidder's letterhead)

for the supply period from 01.10.2013, 06:00 (CET) to 01.04.2014, 06:00 (CET)

Deadline for receipt of the bids by notary: 09.09.2013 17:00 (CET)

Bidder name: [Name to be inserted]

Address:

[Street and street number to be inserted]

[Postal code and city to be inserted]

[Country to be inserted]

Contact person: [Name to be inserted] E-mail: [E-mail to be inserted]

Phone: [Phone to be inserted] Fax: [Fax to be inserted]

We have read, understood and accepted the Conditions of Tender as provided by BOG in its Invitation to Tender for Supply Fuel Gas for the period from 01.10.2013 06:00 (CET) to 01.04.2014 06:00 (CET) published on the websites www.cegh.at and www.bog-gmbh.at on 19.08.2013. We hereby submit the following legally binding offer in accordance with the Conditions of Tender as provided by BOG:

The surcharge price to the indexed price VWAP CEGHIX at the delivery day amounts for the specified product to [__.__] €/MWh (to be inserted in words)

We hereby agree and acknowledge that the present bid(s) shall constitute a binding offer to enter into a Contract for the Supply of Fuel Gas (as provided as Annex 3) with BOG.

The acceptance of our abovementioned offer(s) by BOG leads automatically to the conclusion of such contract and BOG and the bidder will promptly sign the Contract for the Supply of Fuel Gas for documentation purposes.

Place, Date

Bidder's stamp and signature

Fuel Gas Supply for WAG

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Issued on 19th August 2013

Fuel Gas Tender Annex 3

Contract for the Supply of Fuel Gas

hereafter referred to as "Contract"

between Baumgarten-Oberkappel Gasleitungsges. m.b.H, an Austrian company with its registered office at Floridotower, Floridsdorfer Hauptstrasse 1, 1210 Vienna, Austria registered under FN 37874 y, hereafter referred to as "**BOG**"

and

[Supplier]
[address of Supplier]

hereafter referred to as "**Supplier**"

hereafter referred to individually as "**Party**" or jointly as "**Parties**"

Recitals

In accordance with Art III.6 of the Tariff Methodology for transmission network approved by E-Control the gas transmission system operators have to procure natural gas which they require for the operation of the compressors of their Pipeline System according to market-oriented, transparent and non-discriminatory procedures.

As a consequence BOG applied a tender procedure to procure the required amount of fuel gas necessary for the operation of its network.

In this procedure, the Supplier has been awarded the right to supply gas on the conditions mentioned in this Contract. The Parties conclude the Contract for the Supply of Fuel Gas for the purposes of documentation, as follows:

Article 1

Definitions

1.1 For the purpose of this Contract, all words and expressions when written with capital letter shall bear, unless expressly otherwise stated herein, the same meaning as defined in the Other Market Rules Chapter 1 for transmission of natural gas, as published on the website of E-Control.

1.2 For the purposes of this Contract, "Delivery Point" shall mean VTP-CEGH.

1.3 All actions taken by BOG may also be executed by BOG's Representative.

Article 2

Object of the Contract

2.1 BOG shall buy and accept and the Supplier shall sell and deliver to BOG at the Delivery Point the fuel gas according to the provisions of this Contract for the period from 01.10.2013, 06:00 (CET) to 01.04.2014, 06:00 (CET).

2.2 The Supplier shall make available and deliver the monthly and hourly quantities mentioned in Article 3, in accordance with the notifications of quantities as per Article 4.

2.3 BOG shall take delivery of and pay for the gas quantities which it has bought and which the Supplier has delivered in accordance with Art. 2.2 hereinabove. Title to and risk in the gas shall pass to BOG upon delivery of the Natural Gas by Supplier at the Delivery Point. The gas delivered by Supplier to BOG shall have its physical origin inside the Common Market of the European Union. In case gas of Extra European Union origin is delivered by Supplier to BOG, Supplier shall bear all custom duties and shall be responsible for any custom clearances, if any. Supplier will hold BOG fully harmless in this respect irrespective of fault.

Article 3

Contract Quantities

3.1 Resulting from the tender procedure, the Supplier is committed to supply the quantities of gas, as specified in the Bid Form submitted by the Supplier (attached as Appendix 1 to this Contract) in accordance with the provisions of this Contract.

3.2 BOG may notify for delivery by the Supplier at the Delivery Point **per specified product or lot** within the following quantity ranges:

- Minimum Monthly Contract Quantity to be supplied to BOG will not be less than 150 MWh for each month in the entire delivery period
- Maximum Monthly Contract Quantity to be supplied to BOG will not exceed 7,920 MWh for each month in the entire delivery period.
- Maximum Hourly Contract Quantity to be supplied to BOG will not exceed 22 MWh/h for each hour in the entire delivery period.

3.3 Supplier expressly acknowledges that the correct delivery of quantities notified by BOG in accordance with this Article 3 is necessary for BOG to fulfill its obligations as transmission system operator. Therefore, Supplier agrees to hold BOG harmless to full extent and for whatsoever reason for any – direct and/or indirect damage and/or loss arising of Supplier failure to deliver the notified quantities in accordance with this Contract and in time, including also but not limited to increased costs for replacement purchases and costs as a consequence of imbalances in the Austrian Eastern market area.

Article 4

Notification

4.1 BOG or its Representative will notify the Supplier of the natural gas quantities which BOG intends to take delivery of at the Delivery Point on a daily basis, but weekly delivery shall not be excluded. Each notification shall contain at least:

- a. the contract number of the fuel gas supply contract,
- b. the balance group code of BOG,
- c. the Delivery Point,
- d. the validity period, and
- e. the hourly quantity in kWh/h.

4.2 This weekly notification shall be sent by BOG or its Representative per e-mail to the Supplier.

4.3 The weekly notification shall be sent each Monday by 14:00 (CET) and shall be binding from the following day (Tuesday) 06:00 (CET) until the following week Tuesday 06:00 (CET). The notification may be changed by BOG or its Representative at any time provided the change is communicated latest 4 (four) hours prior to the delivery.

4.4 Should the Supplier not have received any weekly notification from BOG or its Representative the following week by 14:00 (CET) of a Monday, the notified quantity shall be deemed to be equal to the quantity notified on the previous Monday. Each notification shall be confirmed by a nomination from the Supplier at the Delivery Point.

4.5 Each Party will make the corresponding nominations to the respective network operator or system operators at the Delivery Point in accordance with applicable rules at that Delivery Point.

Article 5

Gas Quality

The gas to be transferred or handed over at the Delivery Point must comply with the specification attached as Appendix 2.

Article 6

Price

6.1 BOG pays to the Supplier for the natural gas delivered at the Delivery Point in accordance with this Contract the total price P in €/MWh at the delivery date for the specified product as follows :

$$P = P0 + CEGHIX$$

Where:

- P0 is the surcharge price [. . .] €/MWh for all quantities of the specified product as submitted by the Supplier in the Bid Form (copy attached as Appendix 1 to this Contract).
- CEGHIX (CEGH Gas Index) is the volume weighted average price published by the CEGH Gas Exchange for the respective delivery date

6.2 BOG shall pay at the minimum the amount corresponding to the minimum monthly contract quantity also in case BOG did not notify for delivery such minimum monthly contract quantity. BOG shall not be obliged to pay the amount corresponding to the minimum monthly contract quantity in case BOG did notify such minimum monthly contract



quantity for delivery in accordance with Article 3 above and Supplier did not deliver such quantity at the Delivery Point for whatever reason.

6.3 The Supplier shall pay all taxes, duties, fees, charges, and/or other levies inclusive the Title Transfer Service Fee by CEGH.

Article 7

Invoicing and Payment

7.1 The monthly gas quantity delivered in accordance with the provisions of this Contract to BOG shall be invoiced in the month following delivery by the Supplier. The due date for payment is on the 20th (twentieth) day of the calendar month following the month of delivery. Should the invoice not be received 10 (ten) days prior to the 20th (twentieth) day of the calendar month following the month of delivery, the due date shall be not later than the 10th (tenth) day after receipt of the invoice.

In case the due date is not a business day, the due date shall be the next following business day. The invoiced gas quantity shall be deemed to be the quantity which the Supplier delivered to BOG. In addition to the gas price, VAT shall be charged at the rate prevailing and shown separately.

7.2 Invoices shall be transmitted by the Supplier to BOG by letter indicating the account details for the payments.

Article 8

Bank Guarantee

8.1. The Supplier shall submit a written bank guarantee in order to secure the Supplier's obligations and performance under this Contract. Such bank guarantee must be supplied in the format shown in Appendix 3. The guarantor must be either an Austrian bank certified as a customs and tax guarantor or a bank with headquarters in the Member States of the European Union and a long-term rating from Standard & Poor's in the range of A- or from Moody's of A3. The bank guarantee will be returned to the Supplier once the requirements of Section 8.1 have been met and demonstrated to BOG.

8.3 Should the Supplier not meet the obligations and performance defined under this Contract BOG is entitled to redeem the bank guarantee without prejudice to any other remedy at law.

Article 9

Liquidated damages

9.1 Should the Supplier not meet the obligations under this Contract, including but not limited to non-delivery, incomplete delivery, delivery not meeting deadlines or quality requirements, the Supplier shall pay to BOG, irrespective of fault, liquidated damages due immediately in the amount of 15 (fifteen) percent of the CEGHIX price for the relevant day for each MWh per day not meeting the Supplier's obligations under this Contract. Any right of BOG concerned to claim additional damages shall remain unaffected. This penalty shall not be subject to reduction by the court as set forth in Sec. 1336 par 2 of the Austrian Civil Code.

9.2 Payment for liquidated damages shall be effected, upon BOG's discretion, either by means of redeeming the bank guarantee according to Art. 8 or by direct reduction (netting) of BOG's payment obligation.

Article 10

Force Majeure

10.1 For the purposes of this Contract, "Force Majeure" shall mean any event or circumstance the occurrence of which is unforeseeable and beyond the reasonable control of, and could not have been avoided by steps which might reasonably be expected to have been taken by a Party acting in accordance with the standards of a reasonable and prudent operator, which causes or results in failure by such Party to perform or fulfill, or its delay in performing or fulfilling, a contractual obligation owed to the other Party under this Contract. Inability (however caused) of a Party to pay shall not be Force Majeure.

10.2 Without prejudice to the above, Force Majeure shall include, but shall not be limited to, any of the following events: act of God, natural disasters, terrorist attacks, power failure, failure of telecommunications connections, strikes and lock-outs, provided that the lockouts are lawful, 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 installation which are directly or indirectly used for production and transportation of natural gas and which were unforeseeable and beyond the reasonable control of the respective operator of such pipeline or installation acting in accordance with the standards of a reasonable and prudent operator.

10.3 The Party affected by Force Majeure shall notify the other Party immediately thereof and shall, without delay, provide the other Party with details on the expected duration and

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 shall cooperate as far as possible on the elimination of any such disruptions.

10.4 If a Party is prevented from performing or fulfilling its obligations because of Force Majeure pursuant this Article 10, said Party shall be released from its obligations. The other Party shall be released from its corresponding obligations to the extent and as long as said first Party is prevented from performing its obligations because of Force Majeure.

Either Party may terminate the Contract if the other Party experiences a continuous period of Force Majeure of at least 90 (ninety) Days.

Article 11

Liability

Except as otherwise expressly stated in this Contract and except for willful misconduct or gross negligence neither Party including its employees, servants, representatives and agents shall be liable to the other Party. Liability for only light negligence is excluded to the extent that such exclusion is legally admissible and effective. Liability for damage as a result of Force Majeure events and other events beyond the control of the Parties, indirect damage, damage caused by third parties, and loss of profit, shall be excluded under all circumstances.

Article 12

Term and Termination

12.1 This contract is valid from 01.10.2013, 06:00 (CET) ("Effective Date") and ends on 01.04.2014, 06:00 (CET) ("Expiration Date"). It documents the mutual rights and obligations on the delivery of gas by the Supplier on the basis of one or more successful bid(s) in the BOG call for tenders for fuel gas.

Thereafter, the contract remains legally binding on the Parties, but only in respect of all rights and obligations already established or to be established under the Contract that have not already been completely fulfilled by both Parties.

12.2 Notwithstanding para. 12.1, this Contract may be terminated with immediate effect for reasonable cause. Without limitation, the infringement of a major obligation under this Contract by one of the Parties or a change by E-Control to other requirements which are binding on BOG regarding the procurement of fuel gas shall constitute reasonable cause. This Contract may also be terminated with immediate effect in the event of repeated infringements of this Contract.



12.3 BOG shall also be entitled to terminate the Contract with immediate effect if an admissible application for the instigation of insolvency proceedings against the assets of the Supplier has been filed.

12.4 Notice of termination shall not be valid unless made in writing.

Article 13

Confidentiality

13.1 The Parties shall treat as confidential the content of this Contract and all information which they obtain in connection with said Contract (hereafter 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.

13.2 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 the 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 statutory provision or a court or official order; in any such case, the disclosing Party shall inform the other Party thereof without undue delay.

13.3 The confidentiality obligations shall remain in force for a period of two (2) years beyond expiry or termination of this Contract.

13.4 Confidential Information may be disclosed by BOG to its representative and/or Balance Group Responsible without prior written consent of the Supplier.

Article 14

Written Form

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



14.2 Any subsidiary verbal agreements shall be deemed null and void. Unless otherwise agreed hereinabove, any amendments or additions to 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 15

Assignment

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

Article 16

Severability

16.1 If individual provisions of this Contract are or become ineffective, inoperative or invalid or should a gap in this Contract become evident, the effectiveness of the other provisions shall not be affected or impaired thereby.

16.2 The Parties shall replace the ineffective, inoperative or invalid provision, or fill in the gap, with a new and effective operable provision which in legal, technical or economic terms comes closest to what the Parties intended or would have intended in accordance with the purpose of this Contract if they had considered the point at the time of conclusion of this Contract.

Article 17

Changes in Circumstances

17.1 If unforeseeable circumstances occur during the term of this Contract which have considerable economic, technical or legal effects on this Contract but which are not herein contemplated or could not reasonably have been taken into account at the time of execution of this Contract, then the Parties may request a revision of the Contract itself to the extent that it would be unreasonable for the requesting Party to fulfill or perform a particular provision of this Contract.



17.2 The request shall indicate the grounds on which it is based and the suggested amendment to the Contract.

17.3 The request for revision shall be submitted to the other Party within a reasonable time from the moment the requesting Party becomes aware of the event and of its effects on the performance of the Contract. The Parties shall then consult one another with a view to revise the Contract on an equitable basis.

Article 18

Applicable Law and Arbitration

18.1 This Contract and its interpretation shall be governed by substantive Austrian law. Even Contracts concluded with non-Austrian Parties shall be governed exclusively by Austrian law. The UN Convention on Contracts for the International Sale of Goods shall not apply.

18.2 The arbitration proceedings shall be conducted in English.

18.3 The venue for any arbitration proceedings shall be Vienna.

18.4 All disputes arising out of this contract or related to its violation, termination or nullity shall be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by three arbitrators appointed in accordance with these Rules.

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

Place, Date

Place, Date

Baumgarten-Oberkappel Gasleitungsges. m.b.H (Supplier)

Appendices:

- Appendix 1: Bid Form
- Appendix 2: Quality Specification
- Appendix 3: Bank Guarantee
- Appendix 4: Communication

Appendix 1

UNILATERAL BINDING OFFER FUEL GAS

(Copy of the submitted Bid Form on bidder's letterhead)

for the supply period from 01.10.2013, 06:00 (CET) to 01.04.2014, 06:00 (CET)

Deadline for receipt of the bids by notary: 09.09.2013, 17:00 (CET)

Bidder name: [Name to be inserted]

Address:

[Street and street number to be inserted]

[Postal code and city to be inserted]

[Country to be inserted]

Contact person: [Name to be inserted] E-mail: [E-mail to be inserted]

Phone: [Phone to be inserted] Fax: [Fax to be inserted]

We have read, understood and accepted the Conditions of Tender as provided by BOG in its Invitation to Tender for Supply Fuel Gas for the period from 01.10.2013, 06:00 (CET) to 01.04.2014, 06:00 (CET) published on the websites www.cegh.at and www.bog-gmbh.at on 19.08.2013. We hereby submit the following legally binding offer in accordance with the Conditions of Tender as provided by BOG:

The surcharge price to the indexed price VWAP CEGHIX at the delivery day for the specified product amounts to [__.__] €/MWh (to be inserted in words)

We hereby agree and acknowledge that the present bid(s) shall constitute a binding offer to enter into a Contract for the Supply of Fuel Gas (as provided as Annex 3) with BOG.

The acceptance of our abovementioned offer(s) by BOG leads automatically to the conclusion of such contract and BOG and the bidder will promptly sign the Contract for the Supply of Fuel Gas for documentation purposes.

Place, Date

Bidder's stamp and signature

Appendix 2

Quality Specification

Chemical composition				
Methane	C1	min.	85.00	mol%
Ethane	C2	Max.	7.00	mol%
Propane	C3	Max.	3.00	mol%
Butane	C4	Max.	2.00	mol%
Heavier	C5+	Max.	1.00	mol%
Nitrogen	N2	Max.	5.00	mol%
Carbon dioxide	CO2	Max.	2.00	mol%
Oxygen	O2	Max.	0.02	mol%
Sulphur content				
Hydrogen sulphide	H2S	Max.	6.8	mg/Nm³
Mercaptan sulphur	RSH	Max.	16.9	mg/Nm³
Total sulphur	S	Max.	120 150	mg/Nm³ mg/Nm³ for short time
Gross Calorific Value	GCV	min.	10.7	kWh/Nm³
		Max.	12.8	kWh/Nm³
Wobbe Index		min.	13.5	kWh/Nm³
		Max.	15.5	kWh/Nm³
Dew point				
Hydrocarbon dew point		Max.	0°C	≥1.0 and ≤70 bar gauge
Water dew point		Max.	-8°C	at 64 bar gauge
Impurities		The natural gas shall be practically free of solids, dust, iron oxide, mud, liquid hydrocarbons, shall not be odorized.		
Temperature	T	Max.	50°C	

Appendix 3

BANK GUARANTEE

THIS BANK GUARANTEE is issued on this [day] day of [month] [year] by [Bank's details to be inserted] (the "Guarantor") in favour of Baumgarten-Oberkappel Gasleitungsges. m.b.H., a company organised and existing under the laws of Austria having its registered offices at Floridotower, Floridsdorfer Hauptstrasse 1, A-1210 Vienna (together with its successors and permitted assignees "BOG").

[Bank Name to be added] herewith declares to have a Rating equal or higher than A3 Moody's or A- Standard & Poor's at the date of issue of this Bank Guarantee.

WHEREAS

- a) [Supplier details to be inserted] ("Supplier"), on [Date of award to be added] entered into a contract for the supply of fuel gas [code to be inserted] ("Supply Contract") with BOG, concerning the supply of natural gas to BOG, as transmission system operator, in the WAG Pipeline System.
- b) In accordance with the Supply Contract Supplier has to procure a bank guarantee in favour of BOG to guarantee its supply obligations arising out of the Supply Contract. NOW THEREFORE, the Guarantor hereby agrees to the following:

1. Within the limits of the Maximum Guaranteed Amount set forth in 2 below:

- (i) the Guarantor hereby irrevocably guarantees the due and prompt payment to BOG of any amount from time to time due and payable by Supplier, its successors or assignees, under the Supply Contract as and when the same shall respectively become due and payable.
- (ii) Should Supplier fail, at any time for whatever reason, to pay any amount due to BOG with regard to any sums, expressed to be due and payable by it to BOG under the Supply Contract, upon BOG's first written demand, the Guarantor shall promptly and unconditionally pay to BOG, without set-off or counterclaim, the sum specified in BOG's demand. Any such payment shall be made within seven banking-days from receipt of BOG's written request. The amount payable shall include all such amounts as would have been received by BOG had payment been duly made by Supplier, as well as all costs (extra-judicial and judicial) and expenses which BOG may incur in collecting from Supplier and/or Guarantor. Any payment shall be made in the manner as directed by BOG.

- (iii) All payments by Guarantor to BOG shall be made free and clear of all taxes, levies, duties, imposts, fees, deductions or withholdings of any kind and notwithstanding any dispute or objection made by Supplier or by any other third party concerning the sum demanded or the existence of a breach under the Supply Contract or otherwise.
- 2. The maximum guaranteed amount under this Guarantee is equal to EURO 100,000 (hundred thousand) ("Maximum Guaranteed Amount") and BOG acknowledges and agrees that Guarantor shall not be obliged to make any payments under this Guarantee which individually or in aggregate exceed the Maximum Guaranteed Amount and BOG undertakes that all its requests to the Guarantor under this Guarantee shall not, individually or in aggregate, exceed the Maximum Guaranteed Amount.
- 3. This Guarantee is a continuing guarantee which shall be effective as of the date first written above and shall remain in full force and effect until the earliest of:
 - (i) the date on which all duties, liabilities and obligations of Supplier under the Supply Contract have been finally and definitively discharged, or
 - (ii) the date on which Guarantor has paid to BOG under this Guarantee an aggregate amount equal to the Maximum Guaranteed Amount.

Anyway, this letter of Guarantee shall expire on 30.09.2014; after such date this Guarantee will automatically become null and void and any subsequent claim received by the Guarantor will be invalid.

- 4. BOG's rights under this Guarantee shall not be affected, nor shall Guarantor be exonerated or discharged from its liabilities under this Guarantee by time being given to Supplier or by any other indulgence, waiver or concession to Supplier granted by BOG, by taking, holding, varying, non-enforcement or release by BOG of any other security for any of the payments of which is guaranteed hereunder, or by any other indulgence, waiver or concession to Supplier.
- 5. Any communication or notice required or permitted to be given under this Guarantee shall be made in writing (English language shall be used) and shall be sent by registered mail or fax addressed as follows:

(i) If to the Guarantor: [Bank]

Tel.: [to be added] Fax: [to be added] Attn.: [to be added]

(ii) If to BOG:

*Baumgarten-Oberkappel Gasleitungsges. m.b.H.
Floridotower, Floridsdorfer Hauptstrasse 1
A-1210 Vienna*

Tel.: +43 1 271 04 92 600

Fax: +43 1 271 04 92 679

Attn.: The Directors

6. Any dispute, controversy or claim arising between BOG and the Guarantor on the interpretation and/or fulfillment of this Guarantee shall be finally settled by arbitration in Vienna under the rules of conciliation and arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with said rules. The arbitration Board shall decide according to the substantive Austrian Law and the arbitration shall be conducted in English.

Executed and delivered on the date first written above.

[Bank]

Appendix 4

Communication

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

BOG:

Baumgarten-Oberkappel Gasleitungsges. m.b.H.

Att.

Floridotower, Floridsdorfer Hauptstrasse 1, 1210 Vienna, Austria

E-mail address:

Tel. No.: +43 (1) 271 04 92 600

Fax No.: +43 (1) 271 04 92 679

Supplier:

[Supplier] [Contact person] [Street] [Location]

[E-mail address]

[Tel. No.] [Fax No.]

The contacts for the communication for operational services (dispatching services) shall be the following:

BOG's Service Provider:

Gas Connect Austria GmbH

Floridotower, Floridsdorfer Hauptstrasse 1

A-1210 Vienna, Austria

Phone +43-1-271 04 92 600

Telefax +43-1-271 04 92 679

E-Mail

DISPATCHING – 24 hours availability

Phone

Supplier:

NAME OF COMPANY

Please fill in...

Address/Street

Please fill in...

ZIP code/City

Please fill in...

Country

Please fill in...

DISPATCHING - 24 hours availability

Phone Please fill in...

Telefax Please fill in...

E-Mail Please fill in...

DISPATCHING Contact Person

Please fill in...

Phone Please fill in...

Telefax Please fill in...

E-Mail Please fill in...

Fuel Gas Supply for WAG

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Issued on 19th August 2013