

MARKET SURVEY TO ASSESS
MARKET DEMAND FOR
ADDITIONAL LONG-TERM
GAS TRANSMISSION
CAPACITY FROM
FRANCE TO LUXEMBOURG

Information Memorandum
Attachement 2B :
Confidentiality agreement form -
CREOS

Document to be sent to the Joint
Allocation Office

THIS AGREEMENT is made on, between

CREOS Luxembourg SA, a Luxembourg company (“Société Anonyme”) with a share of capital of €159 081 000, incorporated under the laws of Luxembourg whose registered office is located at 2 rue Thomas Edison, Strassen, L – 1445 Luxembourg, represented for the purposes hereof by a duly authorized representative (**CREOS**);
and

.....,
a company incorporated under the laws of,
whose registered office is

.....
(the **Prospective Shipper**).

To CREOS and the Prospective Shipper may hereinafter be collectively referred to as the **Parties** and individually as a **Party**.

WHEREAS

GRTgaz and CREOS are evaluating (i) the expansion of transmission capacity from France to Luxembourg on certain terms and conditions and (ii) the provision of such expanded capacity to shippers interested in subscribing to such capacity (the **Project**).

In furtherance of the Project, GRTgaz and CREOS shall jointly launch an open season (the **Open Season**), in the framework of which the Prospective Shipper has indicated its interest for transmission services offered through the Open Season.

The Parties expect that during the aforesaid discussions and subsequent implementation of the Project, up to the eventual execution of any related transmission contracts to be signed by the Prospective Shipper and the relevant TSO, if any, it may be necessary for them, at discretion, either directly or through a third party, to disclose and communicate, in writing and/or orally, confidential information to the other Party, on the terms and subject to the conditions set forth herein (the **Confidentiality Agreement**).

1. CONFIDENTIAL INFORMATION

All information, plans, proposals or data, of a commercial, financial, technical, planning, management, legal or whatever other nature concerning CREOS or the Prospective Shipper or any of their respective affiliates or their business including, without limitation, their legal foundation, financial structure or plans, or, in the case of CREOS, concerning its evaluation, planning and/or realisation of the Project which is disclosed to or obtained by the other Party whether before or after the date of this Confidentiality Agreement, whether in writing or drawings, orally or by computer print-out, or in any other way, shall be hereinafter referred to as **Confidential Information** and shall be subject to this Confidentiality Agreement.

Confidential Information may be obtained from or pursuant to discussions with CREOS or the Prospective Shipper and/or from any of their respective affiliates, representatives, advisers or consultants or from their respective management or employees or otherwise.

2. DUTY OF CONFIDENTIALITY

Each Party acknowledges that the Confidential Information is confidential and proprietary to the relevant disclosing party. Both CREOS and the Prospective Shipper undertake to maintain the confidentiality of the Confidential Information disclosed by the other Party.

3. USE OF CONFIDENTIAL INFORMATION

Both Parties shall use the Confidential Information solely for the purpose of evaluating the Project and for the conduct of consultations and negotiations in relation thereto and, in particular, shall not use the Confidential Information in any way which is or may be detrimental to the interests of the relevant disclosing party or use the Confidential Information, or act in any way which is or may be detrimental to the successful planning, development and/or realisation of the Project and/or any extension of it. As such, the Prospective Shipper agrees that CREOS may exchange and/or share the Confidential Information with its adjacent grid operators, including without limitation GRTgaz in France, to the extent necessary to coordinate investments in transmission capacity and to allow for a co-ordinated allocation of capacity by CREOS and the adjacent grid operators as well as to the competent regulatory authorities in the framework of the Open Season.

4. DISTRIBUTION OF CONFIDENTIAL INFORMATION

Each Party agrees only to show Confidential Information disclosed by the other Party to its employees and advisors, its affiliates and their employees (for each Party together being referred to as its Relevant Parties) on a strictly need to know basis, to the extent necessary for the purposes set out in section 3 hereabove, and on condition that its Relevant Parties are made aware of the terms of this Confidentiality Agreement and that each Party will be responsible for any breach of any terms of this Confidentiality Agreement by any of its Relevant Parties.

The communication of Confidential Information shall in no event confer or imply the grant or agreement to grant any license or other rights (e.g. intellectual property rights) express or implied, to the receiving Party, except the limited right to use the Confidential Information, as specifically set forth hereunder.

The disclosing Party disclaims all responsibility and liability for any actions taken by the receiving Party on the basis of its analysis or other use of the Confidential Information including, but not limited to, any adjustments or modifications to the receiving party's products and/or services in light of such use of Information, and the receiving Party acknowledges that the disclosing party shall have no responsibility or liability as a result of the receiving Party's use of the Confidential Information.

5. SURRENDER OR DISTRUCTION OF CONFIDENTIAL INFORMATION

If either Party subsequently does not participate in the Project, each Party shall cease to make use of the Confidential Information disclosed to it by the other Party and shall procure that such Confidential Information is destroyed

6. NON-CONFIDENTIAL INFORMATION

This Confidentiality Agreement shall not apply to information:

- d) which is publicly available at the time it is made available to either Party or subsequently becomes generally available to the public other than as a result of disclosure or other act or omission by either Party or any of its Relevant Parties or otherwise contrary to their respective obligations of confidentiality; or
- e) which was available (as can be demonstrated by its written records) to either party or to any of its Relevant Parties, prior to the supply of Confidential Information by the relevant disclosing party, and which is free of any restrictions as to its use or disclosure; or
- f) which either Party is required by law, or regulation or by the requirements of any regulatory or other authority to disclose.

7. TERM - DURATION OF DUTY OF CONFIDENTIALITY

This Confidentiality Agreement shall come into force upon execution by the Parties and shall continue thereafter to the extent needed for the implementation of the full Project.

Each Party's obligations in respect of the Confidential Information disclosed by the other Party shall continue in force for a period of five (5) years from its disclosure.

8. OBLIGATION TO MAKE ANNOUNCEMENTS

Neither the Prospective Shipper nor any of its Relevant Parties nor any other person or body acting on behalf of the Prospective Shipper or any of its Relevant Parties shall make, permit or solicit any announcement, communication or disclosure concerning the Project and/or any extension of it without the prior written consent of CREOS.

9. GOVERNING LAW - SETTLEMENT OF DISPUTE

This Confidentiality Agreement shall be governed by and construed in accordance with the Luxembourg law.

Each of the Parties to this Confidentiality Agreement irrevocably agrees that the courts of Luxembourg are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Confidentiality Agreement or the subject matter hereof and submit to the jurisdiction thereof.

The Parties agree that any violation of any terms of this Confidentiality Agreement may cause immediate and irreparable harm to the disclosing Party. Therefore and, notwithstanding the above and without prejudice to the rights and remedies otherwise available, the disclosing Party shall be entitled to equitable relief by way of injunction in the event the other Party's breach(es) or threaten(s) to breach any of the provisions of this Confidentiality Agreement before any competent court.

10. GENERAL PROVISIONS

No amendment to terms and conditions of this Confidentiality Agreement shall be valid and binding on the Parties hereto unless made in writing and signed by an authorised representative of the Parties.

This Confidentiality Agreement shall be binding upon the Parties hereto and their respective successors, assigns, subsidiaries and affiliates.

The Parties hereto agree to perform their obligations hereunder without any charge or expenses to other Party.

This Confidentiality Agreement and the exchange of Confidential Information shall not create an obligation for a Party to engage in a future agreement or any other relationship.

This Confidentiality Agreement constitutes the entire understanding of the Parties regarding the Confidential Information and supersedes all prior oral or written agreements.

The Prospective Shipper acknowledges that the TSO's corporate policy requires that TSO's business be conducted within the letter and spirit of the law including the applicable European and domestic regulations and the good business practices commonly recognized in the gas industry. By signing this Confidentiality Agreement, the Prospective Shipper agrees to conduct any business that may be contemplated pursuant to this Confidentiality Agreement in a manner that is consistent with both law and good business ethics. Specifically, the Prospective Shipper recognizes having been made fully acquainted with the TSO's statement of business principles as available at the TSO's websites.

A Party's failure to enforce any provision, right, or remedy under this Confidentiality Agreement shall not constitute a waiver of such provision, right, or remedy.

IN WITNESS WHEREOF, the Parties hereto have caused this Confidentiality Agreement to be executed in two (2) original copies by their duly authorized representatives, each Party receiving one (1) original copy hereof.

For and on behalf of

CREOS

Name:

Name:

Position:

Position:

For and on behalf of
the **Prospective Shipper**

Name:

Name:

Position:

Position:

