Danish Energy Agency

DRAFT

Contract on subsidy for negative emissions carbon capture, transport and storage

between

Energistyrelsen (The Danish Energy Agency)
CVR-nr. 59778714
Carsten Niebuhrs Gade 43
DK-1577 Copenhagen V
Denmark

(in the following referred to as "the DEA")

and

[Company name]
[Business registration no.]
[Address]
[Postal code + city]
[Country]

(in the following referred to as "the Operator")

(also referred to collectively as "the Parties", individually as "the Party")

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1. BACKGROUND AND PURPOSE

1.1 On 4 December 2021, a majority in the Danish Parliament signed a partial agreement, which was included in the Agreement on the Danish Financial Act for 2022 of 6 December 2021. The agreement introduced a market-based subsidy fund of DKK 2,559 ,200,000 (in 2023-prices) excluding VAT which are scheduled for disbursement between 2025-2032, dedicated to the establishment of a value chain for negative carbon emissions via CCS (the "NECCS fund").[1]

1.2 The deployment of funds has been subject to competitive bidding procedure conducted as an open procedure and in accordance with the general principles of the Danish Public Procurement Act (in Danish: "*Udbudsloven*").

1.3 Based on this procedure, the Parties have entered into the Contract pursuant to which the Operator shall ensure capture, transportation, and permanent, geological storage of CO_2 in accordance with the terms set out in the Contract and in accordance with the applicable legislation. The Subsidies will be paid per tonne of biogenic or atmospheric CO_2 captured and permanently, geologically stored in accordance with the Contract. The Subsidy is subject to VAT.

1.4 The purpose of the Contract is to ensure negative emissions by ensuring that the negative emissions stipulated in the Contract are achieved and to contribute to the realization of Denmark's climate targets as outlined in the Danish Climate Act (in Danish: *"Klimaloven")* (Consolidation) Act no. 965 of 26 June 2020 with the requirements etc. laid down in subsequent amendments applicable from time to time. The Operator shall capture and permanently, geologically store the Annual Quantity every year from 2026 until (and including) 2032, and, if any, the 2025-Quantity from start of operating until (and including) 31 December 2025, in accordance with this Contract.

1.5 The Operator's obligations shall be interpreted in the light of the criticality of the Contract to enable Denmark to achieve negative emissions and to contribute to the realization of Denmark's climate targets as outlined in the Danish Climate Act. In this respect, the Operator acknowledge and agrees that the DEA has relied on the Operator's Solution as reflected in the Operator's offer, including but not limited to the information given by the Operator in relation to the maturity of the project and the warranties set out in clause 14.

1.6 The Contract does not include or entail a right for the DEA or any other Danish public authority to claim direct title to any certificates (voluntary credits) related to capture and storage of biogenic or atmospheric CO_2 (or other similar arrangements) . The Contract does not prohibit the transfer

[1] Agreement between the Government and the Green Left, the Danish Social Liberal Party, the Red/Green Alliance, the Alternative and the Christian Democrats concerning: The Financial Act for 2022 (6 December 2021) (Available in Danish at: https://www.regeringen.dk/aktuelt/publikationer-og-aftaletekster/aftale-om-finansloven-for-2022/).

inside or outside the borders of Denmark of certificates (voluntary credits) related to capture and storage of biogenic or atmospheric CO_2 (or other similar arrangements) provided that the negative emissions after such transfer will still contribute to the realization of Denmark's climate targets as outlined in the Danish Climate Act. If future applicable legislation etc. should entail that the negative emissions cannot contribute to the realization of the climate targets as outlined in the Danish Climate Act or count as CO_2 reductions in Denmark's National Inventory Report in case of transfer inside or outside the borders of Denmark of voluntary credits (or other similar arrangements) corporate carbon removals generated from the CCS Activities, such transfer will be in conflict with the main purpose of the Contract and a material breach of the Contract.

1.7 The granting of Subsidies constitutes State aid pursuant to Article 107(1) of the Treaty on the Functioning of the European Union. Prior to the conclusion of the Contract, the European Commission has declared the aid compatible with the Internal Market pursuant to Article 107(3)(c) TFEU, see Appendix 1, European Commission's Decision State Aid SA [no] of [date]. The Contract shall be construed in accordance with the EU State aid rules and the Subsidies can only be granted and paid to the Operator as approved by the European Commission.

1.8 Besides the obligations specifically set out for the Operator in the Contract, the Operator is required to comply with any further requirements in order to ensure compliance with the European Commission's Decision finding the aid compatible with the Internal Market, see Appendix 1, European Commission's Decision State Aid SA [no] of [date]. The Operator is further required to provide all information necessary to enable the DEA to ensure compliance with the decision and to respond comprehensively to any request from the Commission in relation to the aid.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

2.1.1 Capitalised terms used in the Contract shall have the meaning as ascribed to them in Appendix 2, Definitions.

2.2 Rules of interpretation

2.2.1 When interpreting the Contract, the purpose of the Contract and its criticality for contributing to the realization of Denmark's climate targets as outlined in the Danish Climate Act shall be taken into account.

2.2.2 The Contract and its Appendices, including sub-appendices, shall form the entire Contract. Any provisions in the tender material, in the Operator's Solution (other than those that are included in the Appendices, including sub-appendices, of the Contract) or in previous correspondence, etc.,

which are not included in the Contract shall not subsequently be relied upon as a basis for interpretation. It shall be of no relevance for the Operator's obligation to fulfill the DEA's Requirements, whether the requirements were categorised as minimum requirements or general requirements during the tender process that led to the award of the Contract. Similarly, it shall be of no relevance for the Operator's obligation to fulfill the DEA's Requirements, whether the requirements are stated in table format with requirement numbering, in plain text or in any other way.

2.2.3 Any references to the Contract or to a provision hereof shall also include the Appendices to the Contract, or the Appendices relevant to the provision in question, as the case may be. Any reference to an Appendix shall also include the sub-appendices to the Appendix.

2.2.4 The DEA's award of the Contract to the Operator shall not constitute an approval or endorsement of the Operator's Solution (including but not limited to the Operator's the Operator's Solution Description). The Operator's statements in the Operator's Solution shall not imply that the DEA's Requirements are not met.

2.2.5 If, at the time of signing the Contract, an inconsistency exists between the DEA's Requirements and the Operator's Solution, the DEA's Requirements shall prevail.

2.2.6 In the event of inconsistency between the DEA's Requirements on the one hand, and, on the other hand, any documentation, reporting or similar performed by the Operator as part of the CCS Activities after signing the Contract, the DEA's inspection, review, approval, or acceptance of such documentation, reporting or similar shall not constitute approval of any change to the requirement, unless the DEA has explicitly waived the requirement and this has been confirmed in a change made in accordance with the change management process in Appendix 8, Change management.

2.2.7 The use of the term "including but not limited to" or the like shall not be interpreted to limit the meaning of other ways in which examples are given in the Contract. The use of examples shall not be interpreted to limit what is required from the Operator.

2.3 Precedence of documents

2.3.1 The following order of precedence shall apply in case of any discrepancies:

a) The Contract excluding Appendices
b) Appendix 2, Definitions
c) The following in no order of importance:
    i. Appendix 3, Requirements specification
    ii. Appendix 5, Subsidy and economy scheme
    iii. Appendix 6, Offered Rate and Contracted Quantity
    iv. Appendix 7, Code of Conduct
    v. Appendix 8, Change management
    vi. Appendix 9, Model performance and warranty guarantee
d) The following in no order of importance:
    i. Appendix 4, the Operator's Solution Description
    ii. Appendix 10, Information about Sub-Suppliers

2.3.2 With respect to Appendix 1, European Commission's Decision State Aid SA [no] of [date], reference is made to clauses 1.7 and 1.8.

3. THE OPERATOR'S OVERALL OBLIGATIONS

3.1 The Operator is responsible for achieving negative CO_2 emissions in accordance with the Contract and the Operator shall establish and be responsible for the Value Chain necessary to achieve the negative emissions. This means that the Operator shall be responsible for, including but not limited to;

a) establishing a solution that enables the capture of biogenic or atmospheric CO_2 at the source(s);
b) ensuring transportation of the CO_2 to the permanent, geological storage site, including, if relevant, any intermediate storage;
c) ensuring the permanent, geological storage of the CO_2 captured:
d) ensuring compliance with the CCS Directive's requirements as implemented in national law and any other applicable law; and
e) establishing and operating all systems, tools, procedures etc. necessary to document and report accurately the negative emissions and permanent, geological storage of CO_2 achieved and provide such documentation and reporting to the DEA as required by the Contract.

3.2 Without limiting the generality of the foregoing, the Operator shall, at its own expense and risk, plan and carry out any and all works, supplies and services, ensure the supply of all equipment and materials, perform any other activities and tasks, including obtaining all necessary certificates, permits and approvals, testing and validation and entering into any and all agreements, required to ensure timely establishment and operation of the Value Chain in accordance with the Contract,

including the establishment of the carbon capture solution(s), the means required for CO_2 transportation and the permanent, geological CO_2 storage site(s).

3.3 In addition to the negative emissions, the Operator shall, as part of the CCS Activities, deliver various documentation and reporting and make available various information, data, etc. (the "Deliverables") to the DEA.

3.4 The Operator shall perform the CCS Activities and achieve the Contracted Quantity in accordance with the Contract, including but not limited to Appendix 3, Requirements specification and Appendix 4, the Operator's Solution Description.

3.5 The Operator shall notify the DEA of and follow the change management process as set out in clause 18 and Appendix 8, Change management, for any changes, deviations etc. in the Operator's project that entail or otherwise result in changes of information, documentation etc. provided in Appendix 4, the Operator's Solution Description, including but not limited to changes related to the Carbon Capture Plant, the means of transport of CO_2 and the permanent, geological storage site.

3.6 The Operator is not required to notify the DEA of changes to timing and sequence of milestones and activities in Sub-appendix 4.B, Project Schedule, that does not entail a delay or a risk of delay with the Commercial Operation Date. The Operator's obligations etc. in case of delay and risk of delay with the Commercial Operation Date are set out in the Contract, including but not limited to clauses 10.2 regarding postponement of the Commercial Operation Date and 19.2 regarding delay.

4. THE CONTACT PERSONS OF THE PARTIES

4.1 Each Party has prior to contract signing appointed a contact person for the performance of the Contract.

4.2 The DEA has appointed the following contact person:

Name	[To be provided by the DEA prior to contract signing]
E-mail address	[To be provided by the DEA prior to contract signing]
Telephone no.	[To be provided by the DEA prior to contract signing]
Company	The DEA

4.3 The Operator has appointed the following contact person:

Name	[To be provided by the Operator prior to contract signing]

E-mail address	[To be provided by the Operator prior to contract signing]
Telephone no.	[To be provided by the Operator prior to contract signing]
Company	The DEA

4.4 In case the Operator's contact person, see clause 4.3, is replaced (temporary or permanent), the Operator shall notify the DEA in writing and appoint a successor or temporary replacement without undue delay.

5. THE OPERATOR'S PERSONNEL AND SUB-SUPPLIERS

5.1 The Operator shall establish and maintain the capacity and knowledge required for the performance of the CCS Activities in accordance with the Contract and maintain the competencies described in the Operator's Solution.

5.2 The Operator's business partners, if any, contributing to the performance of the Contract shall be regarded as Sub-Suppliers. The Operator's use of Sub-Suppliers is described in Appendix 4, the Operator's Solution Description, including the details of the Sub-Supplier's involvement in the performance of the Contract.

5.3 The Operator shall not without the DEA's written consent, in whole or in part, entrust Sub-Suppliers with the performance of the Contract or replace a Sub-Supplier with another Sub-Supplier or by the Operator itself taking over the tasks of the Sub-Supplier. The DEA shall not withhold such consent without reasonable cause. The Operator shall ensure that the replacement of Sub-Suppliers take place in accordance with the public procurement rules as applicable at any times.

5.4 The Operator shall provide the DEA with the name, contact information and legal representative of the Sub-Suppliers to be used in connection with the performance of the Contract at any time during the term of the Contract. The Operator shall not later than at the time of commencement of performance provide this information in Appendix 10, Information about Sub-Suppliers, provided that the Sub-Suppliers are known at the time.

5.5 The Operator shall without undue delay give notice of any change in the details of the Sub-Suppliers and Appendix 10, Information about Sub-Suppliers, shall be updated accordingly. Where any changes have been made in the use of Sub-Suppliers, including replacement of Sub-Suppliers or new Sub-Suppliers, Appendix 4, the Operator's Solution Description, and Appendix 10, Information about Sub-Suppliers, shall be updated accordingly. If any change regarding Sub-Suppliers entails an amendment of Appendix 4, the Operator's Solution Description, or any other appendices, besides the identity of the Sub-Supplier, the change management procedures set out in Appendix 8 shall be followed.

5.6 The Operator shall ensure on the DEA's behalf that the legal representatives receive information about the DEA's processing of personal data in accordance with the law on the processing of personal data as applicable at any time.

5.7 The Operator's use of Sub-Suppliers (in any tier of the Value Chain) shall not entail any limitation of the Operator's liability or responsibility for complying with the requirements of the Contract. The DEA may in all cases contact the Operator directly, even when the Operator has entrusted one or more Sub-Suppliers with the fulfilment, in whole or in part, of the requirements.

5.8 The Operator is liable for the documentation, service or similar delivered of its Sub-Suppliers in the same way as for its own documentation, service or similar delivered. In addition, Sub-Suppliers shall have no claim against the DEA under the Contract, neither claims for payment, nor for damages.

6. CODE OF CONDUCT

6.1 The Operator's performance of the Contract shall take place in accordance with Appendix 7, Code of conduct.

7. REPORTING

7.1 The Operator shall comply with the specific reporting requirements set out in the Contract, including Appendix 3, Requirements specification. If the DEA reasonably determines that reporting on other matters or additional reporting on matters covered by the specific reporting requirements is necessary, the Operator shall at the DEA's request provide such reporting without undue delay.

8. AUDITING

8.1 The Operator shall support and facilitate audits conducted by the DEA or a third party on behalf of the DEA of the Operator's compliance with the provisions of the Contract. Audits may be scheduled between the Parties or performed on an ad hoc basis.

8.2 Audits may include, but shall not be limited to, matters such as:

a) reviewing the measurement and monitoring tools and procedures used by Operator under the Contract (for inspection and verification purposes);
b) reviewing the Operator's information, data, reporting, etc. related to measurements of CO_2 capture and storage and the calculation of Subsidies;
c) reviewing the Operator's performance of the CCS Activities;
d) reviewing compliance with the terms of the Contract and applicable law; and
e) any other subjects reasonable required by the DEA.

8.3 The Operator shall deliver, utilise and manage on an ongoing basis, a process to demonstrate to the DEA that audit observations and actions have been addressed within agreed timescales and, in any case, without undue delay.

8.4 Any audit observations and actions are to be registered by the Operator, and the Operator shall provide documentation to the DEA that all findings are addressed.

8.5 Audits shall not exempt the Operator from any obligation or responsibility contained in the Contract, nor shall any omission of audits entail any limitations in the DEA's rights.

9. COMPLIANCE WITH APPLICABLE LAW AND AUTHORITY APPROVALS AND PERMITS, ETC.

9.1 The Operator shall ensure that the CCS Activities and the performance hereof are in compliance with applicable law, including but not limited to the CCS Directive as implemented in national law (or any rules that may supersede the CCS Directive and the implementing legislation), environmental law, including environmental assessment and protection rules, planning law, offshore safety regulations, maritime law, etc.

9.2 The Operator shall furthermore ensure that the CCS Activities and the performance hereof are in compliance with authority approvals and permits.

9.3 The Operator shall be obliged to ensure that the performance of the Contract at all times does not entail a violation of sanctions, export control laws and regulations, embargoes or similar. Furthermore, the Operator shall, throughout the duration of the Contract, be obliged to notify the DEA immediately in writing in the event of any changes in the ownership of the Operator or any Sub-Supplier, changes in the control of the Operator or any Sub-Supplier and any other matter relevant to ensure compliance with sanctions, export control rules, embargoes or similar.

10. ESTABLISHMENT OF THE VALUE CHAIN

10.1 Commercial Operation Date

10.1.1 The Operator shall ensure that the Value Chain is established to commence operation no later than at the date of the Commercial Operation Date specified in Sub-appendix 4.B, Project Schedule. The Operator must at all times seek to prevent, avoid, overcome, absorb, minimise or mitigate any delay by taking such measures as may reasonably be required.

10.2 **Postponement of the Commercial Operation Date**

10.2.1 The Operator is only entitled to a postponement of the Commercial Operation Date to the extent that one of following circumstances in this clause 10.2.1, items a) – e) renders it impossible for the Operator to timely achieve the Commercial Operation Date and under the conditions that the relevant circumstance i) could not be foreseen at the deadline for submission of the Operator's offer, ii) could not be overcome after the Parties entered into the Contract, including by timely dialogue with the authorities, amendments to the Operator's Solution (acceptable to the DEA), investments of work, money, etc. that are not clearly unreasonable taking the amount of Subsidies to be granted under the Contract into account, and iii) cannot in any other way be attributed to the Operator's own circumstances (including, for the avoidance of doubt, the circumstances of its Sub-Suppliers):

a) Injunctions or prohibitions by the authorities
b) A requirement for a stay of execution following directly from legislation or from a decision by a board of appeal or a court of law.
c) If the establishment of one or more elements of the Value Chain cannot be initiated due to a large preliminary study, see section 26(3) of the Danish Museum Act (museumsloven), cf. Consolidating Act no. 358 of 8 April 2014, or the project is suspended due to archaeological studies, see section 27 of the Danish Museum Act, cf. Consolidating Act no. 358 of 8 April 2014.
d) If the Operator (including for the avoidance of doubt, the Sub-Suppliers) has not received permits and/or approvals from authorities required to be able to achieve the Commercial Operation Date at the date specified in Sub-appendix 4.B, Project Schedule.

10.3 The Operator is furthermore entitled to a postponement of the Commercial Operation Date in case of a Force Majeure event, see clause 22.

10.3.1 If the Operator considers that it is entitled to a postponement of the Commercial Operation Date, the Operator must notify the DEA of this in writing as soon as possible. The Operator must submit documentation that confirms that the delay has been caused by the circumstance(s) claimed, and that the delay cannot be avoided or mitigated.

10.3.2 A possible postponement of the Commercial Operation Date shall be limited to correspond to the actual delay caused by the relevant circumstance in clause 10.2.1, items a) - d above and shall take into account the Operator's obligation to prevent, avoid, overcome, absorb, minimise or mitigate the delay in clause 10.1.1. As a result of the postponement of the Commercial Operation Date,

the Quantity may be proportionally reduced in the year(s) affected by the postponement (*hypothetical example: the Commercial Operation date is postponed from 1 January 2025 till 1 July 2025; in such an instance, the 2025-Quantity would be reduced by fifty (50) per cent*). The DEA will assess the circumstances and the actual delay on the basis of documentation from the Operator and, if justified, grant a postponement of the Commercial Operation Date.

10.3.3 The Operator shall not be entitled to an increase of Subsidies or any other additional payment or compensation in case of a postponement of the Commercial Operation Date. Postponement of the Commercial Operation Date shall not entail or otherwise result in the Allocated Annual Subsidy (see clause 2.1.8 of Appendix 5, Subsidy and economy scheme) being postponed or transferred, in whole or in part, to another year.

10.3.4 If circumstances under clause 10.2.1, items a) - d), continue beyond twelve (12) months after the Operator's notification under clause 10.3.1, the DEA shall be entitled – but not obliged – to terminate the Contract and no Party shall have any claim against the other Party based on the termination.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 To the extent that the Deliverables is protected by Intellectual Property Rights, the Operator and/or any third party shall hold these rights.

11.2 At the same time, the Operator shall grant to the DEA an irrevocable, royalty-free, non-exclusive licence to use the Deliverables. The licence shall grant the DEA a right to use the Deliverables without quantitative and geographic limitations, at all times (also after termination for any reason of the Contract) and in any way whatsoever in connection with the DEA's business. However, the DEA shall not be allowed to expose the Deliverables directly to a third party which is not engaged or employed by the DEA. Still, the DEA shall be allowed to share all experiences, knowledge and the like from all of the Deliverables with all third parties, but only to the extent that such information is not exempted from the right of access to information according to Section 30, para 2 of the Danish Access to Public Administration Files Act (in Danish: "*Offentlighedsloven*") (Consolidation) Act no. 145 of 24 February 2020 with the requirements etc. laid down in subsequent amendments applicable from time to time.

11.3 The DEA's licence to use the Deliverables shall also include a right to maintain, process and change, etc., the Deliverables. The DEA's licence to use the Deliverables as described in this clause shall also apply to the maintained, processed and changed, etc., Deliverables.

11.4 The DEA shall be entitled to allow third parties which are engaged or employed by the DEA, including but not limited to consultants and, suppliers, and public authorities, to use the Deliverables to

the same extent as the DEA is entitled to use the Deliverables, see clause 11.2. Such third parties shall also comply with the provisions of clause 16. However, the Deliverables shall only be used by such third parties in connection with the Contract and related projects, including the DEA's other CCS or CCUS projects. For the avoidance of doubt, this clause 11.4 shall not constitute a transfer of the DEA's licence to use the Deliverables to any third party.

11.5 The DEA shall be entitled to allow all third parties, including but not limited to tenderers in a tendering procedure, to use experiences, knowledge and the like from all of the Deliverables to the same extent as the DEA is entitled to use the Deliverables, see clause 11.2. Such third parties shall also comply with the provisions of clause 16. For the avoidance of doubt, this clause 11.5 shall not constitute a transfer of the DEA's licence to use the Deliverables to any third party.

11.6 It shall be the Operator's responsibility at the Operator's own expense to obtain all third party rights that form a precondition for the right of the DEA and third parties to use the Deliverables in accordance with the user rights specified in this clause 11. If requested by the DEA, the Operator shall submit documentation that such rights have been obtained.

11.7 The rights to use the Deliverables shall pass when the Deliverables has been made available to the DEA in any way or form.

11.8 The rights to use the Deliverables shall be unaffected by any breach of this Contract by the DEA. Such breach shall be subject to the relevant remedies provided for under this Contract.

12. PERFORMANCE AND WARRANTY GUARANTEE

12.1 To ensure the Operator's due and punctual performance of the Contract, the Operator shall provide a Performance and Warranty Guarantee as described in this clause 12. The guarantee shall be issued in favour of the DEA on the terms and conditions specified in Appendix 9, Model performance and warranty guarantee, and this clause 12. All expenses in issuing and maintaining the guarantee shall be borne by the Operator. The Operator shall ensure that the guarantee is valid and enforceable until the criteria for release of the guarantee have been fulfilled as described in clause 12.11.

12.2 The Operator has prior to contract signing provided to the DEA an unconditional and irrevocable on-demand Performance and Warranty Guarantee issued by a Guarantor in favour of the DEA as described in this clause 12.

12.3 The Performance and Warranty Guarantee shall cover any type of claim raised by the DEA, including but not limited to claims for Penalties, repayment and reduction of Subsidies and damages.

12.4 The Guarantor shall be domiciled in the EU / EEA.

12.5 The Guarantor shall at least have the ratings for long-term debt specified below from two (2) of the mentioned three rating institutions (or corresponding ratings for long-term debt from similar reputable international rating institutions):

a) A- rating for long-term debt issued by Standard & Poor's;
b) A- rating for long-term debt issued by Fitch; and / or
c) A3 rating for long-term debt issued by Moody's.

12.6 The liability of the Guarantor under the Performance and Warranty Guarantee shall, subject to clause 12.7, be limited to an amount in DKK corresponding to Subsidy Rate 2024 x Annual Quantity, however subject to adjustment for inflation, see Appendix 5, Subsidy and economy scheme, clause 3.4. The Subsidy Rate 2024 is for the purpose of the Performance and Warranty Guarantee calculated on the basis of the index in Appendix 5, Subsidy and economy scheme, clause 3.3.1.

12.7 The Operator shall also be entitled provide the Performance and Warranty Guarantee with a fixed amount which, at contract signing, shall have an amount in DKK corresponding to Subsidy Rate 2024 x Annual Quantity. The Subsidy Rate 2024 is for the purpose of the Performance and Warranty Guarantee calculated on the basis of the index in Appendix 5, Subsidy and economy scheme, clause 3.3.1. In such instance, the Operator shall be obliged to provide a new Performance and Warranty Guarantee within twenty (20) Business Days after the adjustment for inflation has taken place in accordance with Appendix 5, Subsidy and economy scheme, clause 3.4.

12.8 If the credit rating of the Guarantor is downgraded and, as a consequence, the Guarantor no longer complies with clause 12.5, the Operator shall within ninety (90) Business Days after the downgrade obtain a replacement Performance and Warranty Guarantee either from another Guarantor that has ratings as set out in clause 12.5 or from a Guarantor that has been designated as a Systemically Important Financial Institution (SIFI) or Global Systemically Important Financial Institution (G-SIFI) by the relevant regulatory authority, unless the DEA in its reasonable discretion determines that a replacement Performance and Warranty Guarantee is not required from the Operator. In the DEA's exercise of this discretion, the DEA shall take into consideration if the downgrading of the Guarantor is a result of a market disruption leading to a general downgrading of all financial institutions similar to the Guarantor. If the downgrading is attributable to the Guarantor and not the market in general, the DEA shall always be entitled to require that a replacement Performance and Warranty Guarantee shall be provided. For the avoidance of doubt, once the Operator has provided the replacement Performance and Warranty Guarantee, the original Performance and Warranty Guarantee shall cease to have effect.

12.9 If the Guarantor is no longer domiciled in the EU / EEA and, as a consequence, the Guarantor no longer complies with clause 12.4, the Operator shall within ninety (90) Business Days prior to the relocation of the Guarantor obtain a replacement Performance and Warranty Guarantee from another Guarantor that complies with clause 12.4, unless the DEA in its reasonable discretion determines that a replacement Performance and Warranty Guarantee is not required from the Operator. For the avoidance of doubt, once the Operator has provided the replacement Performance and Warranty Guarantee, the original Performance and Warranty Guarantee shall cease to have effect.

12.10 If the Operator has not provided a new Performance and Warranty Guarantee from a Guarantor as required and within the deadlines stated in clauses 12.8 and 12.9, the DEA shall be entitled to claim the full amount of the Performance and Warranty Guarantee.

12.11 The Performance and Warranty Guarantee shall be released when the DEA confirms in writing that the Contract has expired and the Operator's obligations under the Contract have been fully discharged.

12.12 The Operator may provide the Performance and Warranty Guarantee with a fixed expiry date under the following conditions:

a) The fixed expiry date may entail that the duration of the Performance and Warranty Guarantee becomes shorter than the duration set out in clause 12.11, but under no circumstances shall the fixed duration of the Performance and Warranty Guarantee be shorter than three (3) years, and the expiry date is to be approved by the DEA.

b) If the criteria for release of the Performance and Warranty Guarantee, see clause 12.11, have not been fulfilled thirty (30) Business Days prior to the expiry date, the Operator shall no later than twenty (20) Business Days before the expiry date of the Performance and Warranty Guarantee extend the validity of the Performance and Warranty Guarantee or provide a new Performance and Warranty Guarantee to be approved by the DEA in both instances with a duration of minimum three (3) years or until the criteria for release have been met.

c) If the criteria for release have not been fulfilled thirty (30) Business Days prior to the expiry date of the extended/new Performance Guarantee, the Operator shall again extend the guarantee or provide a new guarantee on the conditions stated in this clause 12.12; this shall be repeated until the criteria for release are met.

d) If the Operator has not extended the validity of the Performance and Warranty Guarantee or provided a new Performance and Warranty Guarantee within twenty (20) Business Days

before the expiry date of the Performance and Warranty Guarantee, the DEA shall be entitled to claim the full amount of the Performance and Warranty Guarantee.

12.13 The DEA shall confirm the release of the Performance and Warranty Guarantee and / or any decrease in the liability of the Guarantor under the Performance and Warranty Guarantee in writing to the Operator no later than fifteen (15) Business Days after the conditions for expiry or decrease in the liability of the Guarantor have been fulfilled, unless the DEA has made a demand which has not at that time been paid in full by the Guarantor in which case the expiry or decrease shall take place when the demand has been paid in full.

13. INSURANCE

13.1 The Operator shall be obliged to obtain and maintain (or, where relevant, ensure that the Operator's Sub-Suppliers obtain and maintain) the following insurances, to the extent that they are obtainable in the insurance market:

a) Property insurance covering loss of or damage to assets required for the performance of the CCS Activities. The coverage and cover amount shall at all times adequately reflect the risk exposure related to the assets.
b) Liability insurance covering any liability of the Operator and / or whoever acts on the Operator's behalf for loss or damage (including, but not limited to, personal injury and property damage) arising out of the CCS Activities. The coverage and cover amount shall at all times adequately reflect the risk exposure related to the CCS Activities.

13.2 The Operator (or, for the avoidance of doubt, where relevant, the Operator's Sub-Suppliers) shall obtain the insurance required in clause 13.1, item a) before the assets required for the performance of the CCS Activities are exposed to risk of loss or damage, and the insurance in clause 13.1, item b) before commencement of the activities covered by the insurance. The Operator shall upon request provide the DEA with draft insurance policies for the DEA's review and approval.

13.3 The Operator shall furthermore, throughout the duration of the Contract, assess on an ongoing basis whether the insurance coverage and cover amounts are deemed to be adequate and whether insurance not previously available on the insurance market becomes available. Where relevant, the Operator shall amend its existing insurances or obtain new insurances.

13.4 In addition to the above, the Operator shall obtain and maintain throughout the duration of the Contract statutory workers' compensation insurance and hold employer's liability insurance in respect of the Operator's personnel engaged in the performance of the Contract in accordance with any legal requirement applicable at the time. Where the Operator's personnel are not employees of the Operator, the Operator shall ensure that the employer of such personnel holds the insurance.

13.5 The DEA shall at any time throughout the duration of the Contract be entitled to receive evidence of the existence and terms of any of the insurances and of timely payment of premiums. The terms of any of the insurances or the amount of cover provided under them shall not relieve the Operator of any liabilities under the Contract.

14. WARRANTIES

14.1 General Warranties

14.1.1 The Operator warrants that:

a) at all times throughout the duration of the Contract, the Operator will perform its obligations under the Contract in a diligent manner and without delay, and – with due consideration of the criticality of the Contract – comply with all applicable provisions of the Contract;
b) all CCS Activities and the performance thereof are in accordance with the Contract and applicable law and permits and approvals;
c) all reporting provided to the DEA regarding the CCS Activities, including but not limited to reporting related to measurements of CO_2 capture and storage and the calculation of Subsidies, is correct and accurate and is based on actual and verified data;
d) the Contract will be performed by a sufficient number of appropriately experienced, qualified and trained professional personnel; and
e) to the extent required for the performance of the CCS Activities as specified in the Contract, the Operator will observe applicable law in all relevant jurisdictions in force throughout the duration of the Contract, which for the sake of clarity includes compliance with all applicable competition law and state aid rules, and will comply with such statutory regulations in a manner that will allow the DEA to comply with the same.

14.1.2 The Warranties in this clause 14.1 shall be valid throughout the duration of the Contract.

14.2 Warranty concerning third party rights

14.2.1 The Operator warrants that the CCS Activities and the DEA's ownership, possession and use of any Deliverable does not infringe any third party rights of whatever nature, including, but not limited to, Intellectual Property Rights, and that no third party has the right to claim licence fees, royalties or other payments from the DEA for the ownership, possession or use of Deliverables. If a claim from a third party is successfully made, i.e. the said third party can establish that the third party's rights in question have been infringed, the Operator shall secure the DEA the right to the use of the Deliverables or stop the infringement by changing or replacing the Deliverables as necessary, while still adhering to the provisions of the Contract, and indemnify the DEA for any loss in this connection, see clause 20.3. Any change in the Deliverables as a consequence of such infringement shall follow the change management process in Appendix 8, Change management, with the exception

that the Operator shall not be entitled to any postponement of the Commercial Operation Date or any other deviation from the Contract. The warranty in this clause 14.2 shall remain in full force and effect after the termination and / or expiry of the Contract for any reason whatsoever.

15. PAYMENT OF SUBSIDIES

15.1 General

15.1.1 The Subsidies will be paid per tonne of biogenic or atmospheric CO_2 captured and permanently, geologically stored in accordance with the Contract. The Subsidies will be calculated and paid in accordance with Appendix 5, Subsidy and economy scheme. The Subsidies calculated in accordance with Appendix 5, Subsidy and economy scheme, shall cover all the Operator's obligations under the Contract and all costs relating to the Operator's performance of the Contract. The Operator is not entitled to any other payment under the Contract.

15.2 Invoicing

15.2.1 Invoicing shall take place electronically in accordance with the Danish Public Payments (Consolidation) Act no. 798 of 28 June 2007 regarding Public Payments, etc., with the requirements laid down in subsequent amendments applicable from time to time, and the requirements stipulated in Appendix 5, Subsidy and economy scheme.

15.3 Terms of payment

15.3.1 All final invoices shall be due for payment thirty (30) Days from the date of the DEA's receipt of an electronic, valid and correct invoice, see clause 15.2.

15.4 Interest on late payments, etc.

15.4.1 In case of delayed payment from the DEA to the Operator, the Operator will be entitled to interest set at the default interest rate applicable to delayed payments (in Danish: "*morarente*") fixed in section 5 (1) of the Danish Interest Act (in Danish: "*renteloven*") (Consolidation) Act no. 459 of 13 May 2014 with the requirements etc. laid down in subsequent amendments applicable from time to time.

15.4.2 If the DEA disputes a claim for payment made by the Operator in whatever form, the Operator shall be obliged to continue the performance of the Operator's obligations under the Contract, and shall be entitled to no remedies as a consequence of the DEA not paying the Operator other than interest

in case of late payments that the DEA should have made (as provided for in the preceding paragraph). If the claim for payment made by the Operator includes amounts that are not disputed by the DEA, the DEA will pay the undisputed amount in accordance with clause 15.3.

15.5 **Right to set-off**

15.5.1 The DEA is in accordance with governing law, see 26.1, at all times entitled to set off against any invoice from the Operator or any amounts that may be owed to the Operator under the Contract or any other relationship between the Parties any Penalties, interest, damages, loss or other claims for payment that the DEA may have against the Operator.

16. CONFIDENTIALITY

16.1 **Obligations of the Parties**

16.1.1 With the exceptions provided for in clauses 16.1.2 – 16.1.5 and 16.1.8, the Parties and the Parties' personnel shall observe unconditional confidentiality as regards all information that the Parties and the Parties' personnel acquire in connection with the performance of the Contract. The Parties shall not use or disseminate such information other than as part of the performance of the Contract. The Parties shall impose a similar obligation on Sub-Suppliers and others assisting the Parties in connection with the Contract.

16.1.2 The DEA and the DEA's personnel are subject to rules applicable to personnel in the Danish public administration and regarding right of access to information and shall be entitled to disclose information to third parties if this follows from such rules. Consultants and any other persons assisting

the DEA shall observe a duty, as far as information about the affairs of the Operator is concerned, equivalent to the duties of the Parties as set on in clause 16.1.1.

16.1.3 Both Parties shall be entitled to disclose any information to any third party if the disclosure of the information is required under mandatory applicable law. The disclosure shall be limited to the extent necessary to comply with such mandatory law.

16.1.4 The Operator and Sub-Suppliers shall be entitled to disclose information to their owner(s). The owner(s) shall observe the same obligations to keep information confidential as set out in this clause 16.

16.1.5 This clause 16 shall not in any way limit the DEA's or third parties' rights provided for in clause 11.

16.1.6 The Operator may use the Contract as a reference without the prior consent of the DEA. However, the Operator shall not include any confidential information in the reference.

16.1.7 The DEA shall decide how to publish the conclusion of the Contract. If relevant, such announcement shall be coordinated with the Operator in accordance with the market disclosure obligations under MAR ("market abuse regulation").

16.1.8 In case of the Operator's default of a non-trivial nature, the DEA shall be entitled to release a press statement addressing the Operator's default. The DEA shall consult the Operator before such a press statement is released and shall to a reasonable extent take into account the Operator's position when issuing the press statement.

16.1.9 The confidentiality provisions of the Contract shall survive, without limitation, the termination, for whatever reason, or expiry of the Contract.

16.1.10 To the extent the Parties assign the Contract as set out in clause 17 such third party shall observe the same obligations to keep information confidential as set out in this clause16.

17. ASSIGNMENT AND CHANGE OF CONTROL

17.1 Assignment by the Operator

17.1.1 With the modifications in clauses 17.1.3 and 17.1.4, , the Operator shall not be entitled to assign, novate or otherwise transfer (in Danish: "*enhver form for overdragelse*") any obligations or rights under the Contract to any other party without the prior written approval of the DEA. The DEA's approval shall not be unreasonably withheld. Approval will only be granted where such transfer

can take place without the risk of breach of the principles of the public procurement rules and where no material circumstances otherwise prevent such transfer.

17.1.2 Transfer shall also include any form of transfer where the legal entity of the Operator is changed. Transfer shall thus also include, but not limited to, any corporate restructuring, such as merger and demerger, where the legal entity of the Operator is changed. Reference is made, however, to clause 17.1.3.

17.1.3 The Operator shall be entitled to transfer its obligations and rights under the Contract (in whole, not in part) to an entity which is controlled by, controls or is under common control with the Operator on the following terms:

a) The Operator shall put at the entity's disposal its technical and professional resources and shall ensure that the technical and professional resources of its Sub-Suppliers are also put at the disposal of the entity and thereby ensure that the entity will have, as a minimum, the same technical and professional resources as the Operator has at its disposal;

b) The transfer shall have no impact on any of the (new) Operator's obligations under the Contract and shall not in any other way be detrimental to the proper performance of the Contract. For the avoidance of doubt, this also entails that the (new) Operator shall provide a Performance and Warranty Guarantee in accordance with clause 12 prior to the DEA's written confirmation as set out in item d);

c) The Operator shall warrant that the terms in items a) – b) above are fulfilled prior to the transfer of its obligations and rights; and

d) The transfer shall require the DEA's prior written confirmation that the DEA is satisfied that the terms in items a) – c) above are met and the Operator shall be obliged to provide any documentation that the DEA may reasonably require to verify that the terms are met. The DEA's confirmation shall be provided without undue delay if the DEA is satisfied that the requirements in items a) – c) are met.

17.1.4 Subject to the terms in clause 17.1.3, items a) – d), the Operator shall be entitled to transfer its obligations and rights under the Contract (in whole, not in part) to an another legal entity, including corporate restructuring such as merger and demerger, due to amendment of Danish energy supply legislation regarding the organisation of CCS or an amendment of other Danish legislation that affects the organisation of CCS.

17.2 **Assignment by the DEA**

17.2.1 The DEA shall be entitled to transfer its rights and obligations under the Contract to another public authority or any institution or private entity ultimately controlled (controlled in this provision is defined in accordance with the International Accounting Standard (IAS 27) of the International Accounting Standards Board (IASB) by the Danish state or another Danish public authority or mainly financed by public funds, if the public tasks hitherto performed by the DEA, or if the public tasks related to the Contract, are transferred, in whole or in part, to any of the mentioned parties (change of remit). In connection with assignment by the DEA provided for in this clause 17.2 the DEA will notify the Operator in writing. For the avoidance of doubt, the DEA's notification to the Operator shall be for information purposes only and the notification does not entail or give the Operator any right to object to the DEA's assignment.

18. AMENDMENTS AND CONTRACT MANAGEMENT

18.1 The Contract shall not be amended in any other way than by changes to the Contract made in accordance with the change management process provided for in Appendix 8, Change management.

18.2 Subject to clauses 18.3 – 18.5, the Operator shall be entitled to permanently, geologically store the Contracted Quantity at another storage site than the storage site encompassed by Appendix 4, the Operator's Solution Description, on a temporary basis, ("the temporary storage site") on the following terms:

a) The need for permanent, geological storage at the temporary storage site is caused by an unplanned defect, failure or otherwise malfunction at the storage site encompassed by Appendix 4, the Operator's Solution Description, which makes it temporarily impossible for the Operator to permanently, geologically store the Contracted Quantities at the storage site encompassed by Appendix 4, provided that the malfunction is not attributable to gross negligence or willful misconduct of the Operator (including, for the avoidance of doubt, the Operator's Sub-Suppliers);

b) The physical location of the temporary storage site is in Denmark or in a country where the legal basis for transportation between Denmark and the country is in place;

c) Storage at the temporary storage site shall have no impact on any of the Operator's obligations under the Contract and shall not in any other way be detrimental to the proper performance of the Contract;

d) The Operator shall warrant that the terms in items a) – c) above are fulfilled;

e) If the Operator considers that it is entitled to and intends to permanently, geologically store the Contracted Quantities at a temporary storage site, the Operator must notify the DEA immediately thereof in writing. The Operator shall provide the DEA with the documentation specified in R-2 of Appendix 3, Requirements specification, applicable to the temporary storage site, and any other documentation that the DEA may reasonably require to verify that the terms are met, as soon as possible and no later than ten (10) Business Days after the Operator's notification; and

f) The DEA shall confirm in writing that the DEA is satisfied that the terms in items a) – e) above are met. The DEA's confirmation shall be provided without undue delay after the DEA has received the documentation and Deliverables as set out in item e) above if the DEA is satisfied that the terms in items a) – e) are met. If the Operator cannot await the DEA's prior written confirmation, the Operator may at the Operator's own risk and subject to clause 18.4 permanently, geologically store the Contracted Quantity at the temporary storage site without the DEA's prior writing confirmation, however with the Subsidy only being due for payment upon the DEA's written confirmation, see clause 18.3.

g) The Operator is entitled to permanently, geologically store the Contracted Quantity at the temporary storage site for a period of no more than six (6) months after which the DEA's approval is required for the Operator to continue storage of the Contracted Quantity at the temporary storage site.

18.3 To the extent that the DEA confirms in writing that the DEA is satisfied that the terms in 18.2, items a) – e), the CO_2 stored at the temporary storage site will be considered Delivered Quantity.

18.4 To the extent that the DEA finds that the Operator did not meet the terms in clause 18.2, items a) – e), the CO_2 stored will not be considered Delivered Quantity and the Operator shall immediately stop the permanent, geological storage of CO_2 at the temporary storage site. In this case the Operator may be subject to Penalties in accordance with Appendix 5, Subsidy and economy scheme, and the DEA shall be entitled to claim repayment of any Subsidy paid to the Operator, if any, for the CO_2 stored at the temporary storage site.

18.5 The Operator shall not be entitled to an increase of Subsidies or any other additional payment or compensation in case of the circumstances in clause 18.2. For the avoidance of doubt, the Operator is not entitled to claim damages for any loss or damage from the DEA in the circumstances specified in clauses 18.2, item f) and 18.4.

18.6 Changes in the location of the storage site encompassed by Appendix 4, the Operator's Solution Description, including permanent changes of the storage site, that are not covered by clause 18.2, shall be made in accordance with clause 18.1, and are thus subject to the DEA's approval in accordance with Appendix 8, Change management.

19. BREACH BY THE OPERATOR

19.1 Early warning

19.1.1 The Operator shall give an early warning by notifying the DEA by notice as soon as the Operator becomes aware of any matter which could potentially affect the Operator's ability to perform the CCS Activities in accordance with the Contract. Either Party may call in a meeting regarding the early warning if it is deemed necessary.

19.2 Delay

19.2.1 Operator's duty to notify in case of anticipated delay etc.

19.2.1.1 The Operator shall submit a notice to the DEA as soon as the Operator has reason to anticipate a risk of delay with the Commercial Operation Date, stating the reasons for such anticipated delay.

19.2.1.2 The Operator shall, as soon as reasonably practicable and in any event not later than twenty (20) Business Days after the initial notification, give the DEA full details in writing of the reasons for the anticipated delay and the consequences hereof.

19.2.1.3 The Operator shall make all reasonable endeavours to eliminate or mitigate the delay and the consequences hereof. This shall include, but not be limited to, the allocation of additional resources in the form of personnel, machinery, facilities, etc.

19.2.2 Correction plan in case of anticipated delay and / or delay

19.2.2.1 If the Operator finds that a delay with the Commercial Operation will occur, the Operator shall submit a draft correction plan. The Operator shall also be obliged to provide such a draft correction plan, if a delay has already occurred and the Operator has failed to notify the DEA as required in clauses 19.2.1.1 and 19.2.1.2. For the avoidance of doubt, this clause 19.2.2 does not apply to circumstances for which the Operator has been granted a postponement of the Commercial Operation Date, see clause 10.2.

19.2.2.2 The draft correction plan shall describe the additional resources and other revised methods that the Operator proposes to adopt in order to eliminate or mitigate the delay and the consequences

hereof. Unless the DEA notifies otherwise, the Operator shall adopt these revised methods at the risk and cost of the Operator.

19.2.2.3 The draft correction plan shall be submitted to the DEA for the DEA's approval as soon as possible and in any event not later than twenty (20) Business Days (or such other period as the DEA may permit and notify to the Operator in writing) after the DEA's written notification to the Operator of the anticipated delay or after the Operator became aware that delay will occur.

19.2.2.4 The DEA shall approve or reject the Operator's draft correction plan not later than ten (10) Business Days after the DEA has received the draft correction plan. The approval shall not be unreasonably withheld.

19.2.2.5 If the DEA does not approve the draft correction plan, the DEA shall promptly inform the Operator of the reasons for its decision to reject the draft correction plan and the Operator shall take those reasons into account in the preparation of a further draft correction plan, which shall be re-submitted to the DEA within five (5) Business Days of the rejection of the first draft.

19.2.2.6 If the Operator, despite the revised methods in the correction plan, fails to eliminate or mitigate the delay and the consequences hereof, the Operator shall submit a new draft correction plan for the DEA's approval.

19.3 Non-performance with respect to the Contracted Quantities

19.3.1 Operator's duty to notify in case of anticipated non-performance etc.

19.3.1.1 The Operator shall submit a notice to the DEA as soon as the Operator has reason to anticipate a risk of non-performance (other than delay) with respect to the Contracted Quantities in the following instances:

a) A non-performance with respect to the 2025-Quantity of five (5) per cent or more in the year in question; or
b) a non-performance with respect to the Annual Quantity of five (5) per cent or more in the year in question.

The Operator shall state the reasons for such anticipated non-performance in the notification.

19.3.1.2 The Operator shall, as soon as reasonably practicable and in any event not later than twenty (20) Business Days after the initial notification, give the DEA full details in writing of the reasons for the anticipated non-performance and the consequences of the non-performance.

19.3.1.3 The Operator shall make all reasonable endeavours to eliminate or mitigate the non-performance and the consequences hereof. This shall include, but not be limited to, the allocation of additional resources in the form of personnel, machinery, facilities, etc.

19.3.2 **Correction plan in case of anticipated non-performance and / or non-performance**

19.3.2.1 If the Operator finds that a non-performance (other than delay) of the Operator as described in clause 19.3.1.1 will occur, the Operator shall submit a draft correction plan. The Operator shall also be obliged to provide such a draft correction plan, if such a non-performance has already occurred and the Operator has failed to notify the DEA as required in clauses 19.3.1.1 and 19.3.1.2.

19.3.2.2 The draft correction plan shall describe the additional resources and other revised methods that the Operator proposes to adopt in order to eliminate or mitigate the non-performance and the consequences hereof. Unless the DEA notifies otherwise, the Operator shall adopt these revised methods at the risk and cost of the Operator.

19.3.2.3 The draft correction plan shall be submitted to the DEA for the DEA's approval as soon as possible and in any event not later than twenty (20) Business Days (or such other period as the DEA may permit and notify to the Operator in writing) after the DEA's written notification to the Operator of the anticipated non-performance or after the Operator became aware that non-performance will occur.

19.3.2.4 The DEA shall approve or reject the DEA's draft correction plan not later than ten (10) Business Days after the DEA has received the draft correction plan. The approval shall not be unreasonably withheld.

19.3.2.5 If the DEA does not approve the draft correction plan, the DEA shall promptly inform the Operator of the reasons for its decision to reject the draft correction plan and the Operator shall take those

reasons into account in the preparation of a further draft correction plan, which shall be re-submitted to the DEA within five (5) Business Days of the rejection of the first draft.

19.3.2.6 If the Operator, despite the revised methods in the correction plan, fails to eliminate or mitigate the non-performance and the consequences hereof, the Operator shall submit a new draft correction plan for the DEA's approval.

19.3.3 **Penalties related to the Contracted Quantity**

19.3.3.1 If the Operator fails to achieve the Contracted Quantity, the Operator shall pay Penalties as further provided for in Appendix 5, Subsidy and economy scheme.

19.4 **Other remedies**

19.4.1 In addition to what is provided for under clauses 19.2 – 19.3 and 19.5, the DEA shall be entitled to the rights and remedies available under governing law, see clause 26.1.

19.5 **Termination for cause**

19.5.1 The DEA is entitled to terminate the Contract with immediate effect, in whole or in part, in case of material breach of the Contract.

19.5.2 Material breach entitling the DEA to terminate the Contract for cause shall include, but not limited to, the following:

a) If the Operator is in delay in achieving the Commercial Operation Date by more than twelve (12) months calculated from 1 January 2026, or, if the Commercial Operation Date has been postponed to a date after 1 January 2026, see clause 10.2, calculated from the date that the Commercial Operation Date has been postponed to.
b) Non-performance of the Operator with respect to the Annual Quantity in two (2) consecutive calendar years by 25 % of the CO_2 or more in each year.
c) Material breach of any of the Operator's Warranties under the Contract as stated in in clause 14.
d) The Operator's substantial and repeated and / or ongoing non-performance of its obligations.
e) If the performance of the Contract will entail a violation of sanctions, export control rules, embargoes or similar. This also applies in case of, but shall not be limited to, changes in the ownership of the Operator, changes in the control of the Operator, etc., which entail that the performance of the Contract will lead to such a violation, and equivalent changes in the ownership of Sub-Suppliers, changes in the control of the Sub-Supplier, etc.
f) The Operator's material breach of the DEA's code of conduct, see clause 6.

g) The Operator's insolvency unless the insolvency estate announces, without undue delay upon inquiry in writing from the DEA, that the estate will become a party to the Contract.

h) The Operator enters into financial restructuring. By financial restructuring is meant a legal process that is initiated due to the Operator's financial distress and which is compulsory for the creditors by law. The financial restructuring may either be initiated by the Operator or by a third party (such as but not limited to the Operator's creditors).

i) The Operator's enters into negotiations for an arrangement with its creditors, or the Operator's materially deteriorated financial affairs in general jeopardize the proper performance of the Contract.

j) The Operator has incurred liability covered by the Liability Cap to an extent where ninety (90) per cent of the Liability Cap has been reached, see clause 20.4, unless the Operator within sixty (60) Business Days after receipt of a written request from the DEA agrees to increase the available Liability Cap to a level deemed appropriate by the DEA acting reasonably.

k) There is a change of control of the Operator and such change of control will in the justified assessment of the DEA have a material adverse effect on the suitability and capacity of the Operator to fulfil its obligations under the Contract (such assessment of suitability may include consideration of the financial standing of the Operator) provided that the DEA has notified the Operator within six (6) months from the date of the DEA's receipt of any notification of a change of control of the Operator.

l) The Operator's transfer without the DEA's consent, see clause 17.1.1.

m) The Operator's transfer inside or outside the borders of Denmark of certificates (voluntary credits) related to capture and storage of biogenic or atmospheric CO_2 entails that the negative emissions covered by the Contract cannot contribute to the realization of the climate targets as outlined in the Danish Climate Act or count as CO_2 reductions in Denmark's National Inventory Report.

19.6 **Remedy period and the DEA's right of termination (for cause)**

19.6.1 If the DEA considers a material breach of contract situation to have occurred and the cause for the material breach is rectifiable, the DEA shall notify the Operator thereof in writing giving the Operator not less than thirty (30) Business Days' notice to remedy the situation. The causes for material breach set out in clause 19.5 shall be deemed to be non-rectifiable, unless the DEA at its sole discretion determines otherwise at the time of occurrence of such cause(s) in which case the DEA shall set the terms for rectification.

19.6.2 If within the period in clause 19.6.1, the Operator fails to take the necessary action to rectify the breach or if the material breach is deemed to be non-rectifiable, the DEA shall be entitled to terminate the Contract for cause and to submit any claims against the Operator for any loss and damage suffered by the DEA due to such termination, see clause 21, and the Operator shall be liable for any Penalties incurred until the date of termination. For the year in which termination takes place,

the Penalties shall be calculated proportionally, meaning that it is assumed that the Operator's performance would have remained on the same level throughout the entire year and that the Penalties for that year are reduced proportionally taking into account the length of the period from 1 January until the date of termination.

19.6.3 In situations where several substantially the same or similar previous breaches are considered as a material breach of contract, the Operator shall as part of its remedy take appropriate and effective measures to reduce the risk of repetition in future.

19.6.4 However, the DEA shall in any event be entitled to terminate the Contract without further notice in case of reoccurrence of the same or substantially the same material breach of contract within a ninety (90) Business Days' period, provided that remedy period, if any, to remedy the first occurrence of the material breach of contract has expired, see clause 19.6.1. In addition, the DEA shall in any event be entitled to terminate the Contract in case of other material breach of contract as stipulated in clause 19.5.

19.7 **No relevance to other remedies**

19.7.1 The DEA's exercise or non-exercise of its rights under clauses 19.5 – 19.6 shall be of no relevance to any other remedies under the Contract and governing law, see clause 26.1, and non-exercise shall not in any way constitute a waiver from the DEA.

20. LIABILITY

20.1 **General principles**

20.1.1 The Parties' liability towards each other in connection with the performance or non-performance of the obligations following from the Contract is subject to the ordinary rules of Danish law and damages shall also be claimed in accordance with the ordinary rules of Danish law, with the exceptions set out in the Contract.

For the sake of clarity, damages may also be claimed in respect of time spent by the DEA's personnel exclusively due to breach on the part of the Operator, as well as all external costs and expenditures in this connection.

However, the Parties shall not be liable for indirect losses, e.g. loss of profit unless such indirect loss is covered by the preceding paragraph. Loss of data shall be deemed to be an indirect loss

unless such loss is due to the Operator's performance or non-performance of its obligations related to any kind of processing of any data under the Contract.

20.1.2 The Operator shall be fully liable for any act or omission of its Sub-Suppliers.

20.2 **Joint and several liability**

20.2.1 If the Operator is a group of entities (e.g. a consortium) these entities shall be jointly and severally liable for the performance of the Contract. The entities shall appoint one representative to make binding decisions on behalf of all entities.

20.2.2 If the Operator is a group of entities (e.g. a consortium) and these entities either in connection with the award of the Contract or at a later stage, knowingly or by their conduct establish a separate legal entity that may incur separate liability (e.g. a partnership (in Danish: "*interessentskab*")) ("Partnership") for the purpose of fulfilment of the Contract, such Partnership will from the time the Partnership is established be jointly and severally liable for the performance of the Contract together with each entity forming the Operator and shall adhere to the Contract on the same terms as the group of entities forming the Operator. This shall not in any way affect the obligations of the group of entities forming the Operator, and these entities shall continue to be jointly and severally liable for the performance of the Contract, also in case a Partnership is established. The Partnership shall co-sign the Contract no later than one (1) month after the Partnership has been established or at the request of the DEA. However, the Partnership shall be liable as set out above from the time the Partnership is established, regardless of whether the Partnership co-signs the Contract. The group of entities forming the Operator must procure that the Partnership adheres to and co-signs the Contract.

20.3 **The Operator's indemnities**

20.3.1 The Operator shall at all times, at its own cost and expense, pay, defend (see clause 20.3.3) and indemnify the DEA for, from and against, all costs, expenses (including, without limitation, any fees for legal services necessary and fair to defend the DEA's position, court fees, fees to independent experts engaged by the DEA or appointed by the court, etc.), liabilities, claims, proceedings, damages and losses, as incurred and on demand, in any way arising from or connected with:

a) Any claim or action against the DEA by any third party that the ownership, possession or use by the DEA of the Deliverables (or any part of them) or other aspects of the CCS Activities infringes the rights of whatever nature, including, but not limited to, Intellectual Property Rights, of that third party or any other third party;
b) any damage to property of third parties, death or injury to persons, arising out of, as a consequence of or in connection with the CCS Activities, for which the Operator is liable; and

c) regulatory fines, penalties, sanctions, interest or other regulatory monetary remedies incurred by the DEA as a result of the Operator's non-compliance with applicable law.

20.3.2 If any third party makes a claim, or notifies an intention to make a claim, against the DEA that may reasonably be considered likely to give rise to liability as provided for above, the DEA shall:

a) as soon as practically possible give written notice of the claim to the Operator, specifying the nature of the claim in reasonable detail;
b) not make any admission of liability, agreement or compromise in relation to the claim without the prior written consent of the Operator (such consent not to be unreasonably conditioned, withheld or delayed), but the DEA may settle the claim without obtaining the Operator's consent if the DEA reasonably believes that failure to settle the claim would be prejudicial to it in any material respect; and
c) give the Operator and its professional advisers access at reasonable times (on reasonable prior notice) to any relevant documents and records within the control of the DEA, so as to enable the Operator and its professional advisers to examine them and to take copies (at the Operator's expense) for the purpose of assessing the claim.

20.3.3 The DEA shall be entitled – but not obliged – to put the obligation on the Operator to defend the DEA's position in the DEA's name during any litigation, arbitration and / or settlement negotiations concerning matters covered by the Operator's indemnities under this clause 20.3, in any case at the cost of the Operator.

20.3.4 If the DEA does not put the obligation to defend the DEA's position in such litigation, arbitration or settlement negotiations on the Operator, the DEA will liaise with the Operator in order to bring the best possible defence forward, however at the discretion of the DEA.

20.4 **Liability Cap**

20.4.1 The total liability of each Party to the other Party shall be limited to the amount corresponding to one (1) year of maximum Subsidies in DKK (calculated as: *total liability of each Party = Subsidy Rate x Annual Quantity*) (the "Liability Cap").

20.4.2 The Liability Cap covers all claims under the Contract with the exceptions set out in clauses 20.4.3 and 20.4.4.

20.4.3 The Liability Cap shall not apply to:

a) fraudulent acts or omissions, acts or omissions prohibited by / in violation of law or approvals or permits, gross negligence or willful misconduct;

b) Penalties paid in accordance with clauses 19.3.3;

c) The DEA's right to repayment of any Subsidy paid or to reduction of any Subsidy; and

d) the Operator's indemnities provided for in clause 20.3.

20.4.4 Furthermore, the Liability Cap shall not apply to the extent governing law, see clause 26.1, precludes or prohibits any exclusion or limitation of liability.

20.4.5 As also provided for in clause 20.4.1, the Liability Cap shall be limited to claims under the Contract. Thus, for the sake of clarity, the Liability Cap shall not entail any limitation of e.g. the Operator's liability under statutory law or the Operator's non-contractual liability (in Danish: "*erstatning uden for kontrakt*"), including such liability towards the DEA or any other Danish state body.

21. DAMAGES

21.1 Without prejudice to any other remedy stated in the Contract and in accordance with the general liability principles set out in clause 20.1, the Parties shall be entitled to claim damages for any loss or damage suffered due to the other Party's non-performance of the Party's obligations under the Contract, however subject to the Liability Cap set out in clause 20.4.1 with the exceptions set out in clauses 20.4.3 and 20.4.4. To the extent said loss or damage is subject to Penalties, the amount of Penalties received by the DEA shall be deducted.

22. FORCE MAJEURE

22.1 Force majeure events and suspension

22.1.1 If a Force Majeure event occurs, the Parties' obligations towards each other shall be suspended for the time being to the extent that they cannot be performed due to the Force Majeure event, provided that the Force Majeure situation is notified to the other Party with supporting arguments and particulars describing the nature and extent of the Force Majeure event. The notice must be

received within ten (10) Business Days after the Party in question finds or should have found a Force Majeure event to have occurred.

22.1.2 To this effect, Force Majeure is defined as an event:

a) outside the control of the Parties, and of a certain qualified nature (e.g. terrorism, sabotage, war, hostilities, riots, nuclear or natural disasters, epidemics and evacuation; while this list is not exhaustive, only events of a comparable nature shall be included);
b) unforeseeable or not reasonably foreseeable at the deadline for submission of the offer; and furthermore,
c) not possible to overcome; neither by investments of work, nor money, etc.

22.1.3 For the avoidance of doubt, industrial disputes, strikes and events of a similar nature concerning the Operator or a Sub-Supplier shall not be regarded as Force Majeure.

22.1.4 If the Operator's failure to perform under the Contract is due to failure by a third party that the Operator has engaged to perform the whole or a part of the Contract the Operator is exempt from performing his obligation only if:

a) the Operator is exempt under clauses 22.1.1-22.1.3; and

b) the person whom the Operator has engaged would be so exempt if clauses 22.1.1-22.1.3 were applied to him.

22.2 **Continued force majeure**

22.2.1 If the Force Majeure event continues beyond twenty-four (24) months after a Party's Force Majeure notification under clause 22.1.1, the other Party (the Party who did not invoke the Force Majeure clause) shall be entitled – but not obliged – to terminate the Contract.

22.2.2 If the Operator gives notice of termination in accordance with the preceding paragraph, the DEA shall be entitled to require the Operator not to terminate provided that the DEA undertakes to cover the Operator's documented and incurred additional costs in the continued Force Majeure period, i.e. after the lapse of the twenty-four (24) months after the Force Majeure notification. In accordance with the general rules of Danish law, the Operator shall have a duty to reduce such costs as much as possible, and the DEA may at any time with a notice of three (3) months cease to cover the Operator's costs (at which point in time both Parties shall be entitled to terminate the Contract if the Force Majeure event persists).

22.3 **No claim against the other party**

22.3.1 No Party shall have any claim against the other Party based on the occurrence of a Force Majeure situation.

23. DURATION AND TERMINATION FOR CONVENIENCE, ETC.

23.1 Duration

23.1.1 The Contract shall take effect on the date of signature and shall continue until the Operator has fully discharged its obligations after end of operation (the end of operation to be in in 2032, unless terminated earlier in accordance with the provisions of the Contract).

23.2 Termination for convenience

23.2.1 The Operator shall be entitled to terminate the Contract for convenience with a written notice of minimum two (2) years, however at the earliest with effect from three (3) years from the Commercial Operation Date.

23.2.2 Neither Party shall be entitled to any payment or compensation from the other Party as a result of termination in accordance with this clause 23.2. For the avoidance of doubt, neither Party is entitled to claim damages for any loss or damage from the other party as a result of termination in accordance with this clause 23.2.

23.3 Termination due to breach of public procurement law

23.3.1 Annulment by decision from the Danish Complaints Board for Public Procurement or the courts

23.3.1.1 The DEA shall be entitled to terminate the Contract for convenience with a written notice of three (3) months, if the DEA's decision to enter into the Contract is annulled (in Danish: "*annulleret*") by the Danish Complaints Board for Public Procurement or the courts.

23.3.1.2 If so, the Operator's possible claim for damages shall be settled in accordance with the principles of damages in Danish law, but see clause 20.1 and 20.4. Furthermore, the above reservation for

termination for convenience with a notice as stipulated shall be taken into account when calculating the Operator's loss.

23.3.1.3 If the Operator had knowledge of – or ought to have known – the factual or legal grounds leading to the annulment of the Operator, the Operator shall have no claim for damages against the DEA.

23.3.2 **Decision by the Danish Complaints Board for Public Procurement or the courts to declare the Contract ineffective**

23.3.2.1 If the Danish Complaints Board for Public Procurement or the courts declare the Contract ineffective (in Danish: "*uden virkning*") in accordance with the Danish Act no. 593 of 2 June 2016 (in Danish: "*Lov om Klagenævnet for Udbud*") enacting the EU Directive 2007/66/EC, the DEA shall be entitled to terminate the Contract for convenience, in whole or in part, in accordance with the notice given in the decision. If so, the Contract shall cease to have effect from the time stipulated in the decision.

23.3.2.2 If the decision contains further conditions or requirements, the DEA shall be entitled to impose such conditions and requirements on the Operator if this is reasonably justified.

23.3.2.3 If so, the Operator's possible claim for damages shall be settled in accordance with the principles of damages in Danish law, but see clause 20.1 and 20.4. Furthermore, the above reservation for termination for convenience with a notice as stipulated shall be taken into account when calculating the Operator's loss.

23.3.2.4 If the Operator had knowledge of – or ought to have known – the factual or legal grounds leading to the decision declaring the Contract "ineffective", the Operator shall have no claim for damages against the DEA.

23.3.3 **Termination in accordance with Section 185 (1) of the Danish Public Procurement Act**

23.3.3.1 The DEA may terminate the Contract for convenience, in whole or in part, if:

a) the Contract has been subject to a change of fundamental elements which would have required a new procurement process pursuant to Section 178 of the Danish Public Procurement Act;
b) at the time of the award of the Contract, the Operator has been in one of the situations referred to in the Danish Public Procurement Act, Sections 135 – 136 or, if applicable, 137, and therefore should have been excluded from the procurement process;

c) during the term of the Contract, the Operator becomes subject to one of the situations in the Danish Public Procurement Act, Sections 135 – 136 or, if applicable, 137, and cannot document its reliability pursuant to Section 138; or

d) the Contract should not have been awarded to the Operator in view of a serious infringement of the obligations under the Treaties and this Directive that has been declared by the Court of Justice of the European Union in a procedure pursuant to Article 258 TFEU.

23.3.3.2 If the DEA terminates the Contract due to circumstances mentioned in items a) and d) in clause 23.3.3.1, the Operator's possible claim for damages shall be settled in accordance with the principles of damages in Danish law, see however clause 20.1 and 20.4. Furthermore, the above reservation for termination for convenience with a notice as stipulated shall be taken into account when calculating the Operator's loss.

23.3.3.3 However, if the Operator had knowledge of – or ought to have known – the factual or legal grounds leading to the termination of the Contract, the Operator shall have no claim for damages against the DEA.

23.3.3.4 If the DEA terminates the Contract due to circumstances mentioned in item b) or c) in clause 23.3.3.1, the Operator shall have no claim for damages against the DEA.

24. OBLIGATIONS RELATED TO TERMINATION

24.1 In case of termination of the Contract, regardless of the reason, the Operator shall be obliged to provide to the DEA all information, data, reporting, documents, etc. required to be provided by the Operator under the Contract at the time of termination.

25. SEVERANCE AND SURVIVABILITY

25.1 Severance

25.1.1 If any provision or clause of the Contract is held to be ineffective, unenforceable or illegal for any reason, such decision shall not affect the validity or enforceability of any or all remaining portions hereof.

25.1.2 The Parties shall agree on new provisions or clauses to replace the ones being held to be ineffective, unenforceable or illegal, with due respect of the rules on public procurement and taking into consideration the intention and purpose of the provisions having been held to be ineffective, unenforceable or illegal.

25.2 Survivability

25.2.1 The Parties agree and acknowledge that the following provisions of the Contract shall survive the expiry or termination, for whatever reason, of the Contract and remain in force indefinitely:

a) The Operator's obligation to ensure permanent, geological storage of the CO_2 captured
b) The provisions regarding Intellectual Property Rights in clause 11
c) The Operator's warranty under clause 14.2.
d) The Parties' obligations under clause 16 regarding confidentiality
e) The Operator's obligation to pay Penalties under clause 19.3
f) The Operator's indemnities under clause 20.3
g) The provisions of clause 26.1 regarding governing law
h) The provisions of clause 26.2 regarding dispute resolution

26. GOVERNING LAW AND DISPUTE RESOLUTION

26.1 Governing law

26.1.1 The Contract and any dispute arising out of or in connection with it shall be subject to Danish law, substantive as well as procedural, however excluding its choice-of-law rules.

26.2 Dispute resolution

26.2.1 The parties shall seek to resolve all disputes arising out of this Contract or in connection with it through negotiations between the Parties, which shall be conducted constructively by each Party.

26.2.2 Any dispute arising out of or in connection with this Contract, including any disputes about the existence, validity or termination thereof, or the legal relation established by this Contract, which the Parties are unable to resolve through negotiations as stated in clause 26.2.1, shall be settled by the ordinary courts of law under the jurisdiction of the City Court of Copenhagen.

27. COUNTERPARTS AND SIGNATURE

27.1 Counterparts

27.1.1 The Contract shall be signed in two (2) counterparts, both of which taken together shall constitute one single Contract between the Parties hereto.

27.2 **Signatures of the Parties**

For the DEA
Date:

Name: […]
Title: […]

For the Operator
Date:

Name: […]
Title: […]

27.3 **Signatures of Partnership formed with the purpose of the Contract**

27.3.1 As described in clause 20.2.2, if the Operator is a group of entities and forms a Partnership for the purpose of fulfilment of the Contract, such separate Partnership will from the time the Partnership is established be jointly and severally liable for the performance of the Contract with each entity forming the Operator and shall adhere to the Contract on the same terms as the group of entities forming the Operator.

27.3.2 The Partnership listed below has assumed joint and several liability together with each entity forming the Operator with regard to the Contract. This implies that the Partnership has assumed liability for the performance of the Contract on equal terms with each entity forming the Operator. The Partnership shall hold the same right as the Operator to raise objections if the Partnership considers an alleged breach of the Contract to be unascertained. The liability of the Partnership shall remain in force until the expiry of the obligations included under the Contract. The Partnership has by its signature to the Contract accepted all terms of the Contract.

For the Partnership
Date:

Name: […]
Title: […]