

CHAPTER 17

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17.1 OBLIGATIONS OF THE PARTIES

17.1.1 *Obligations of the Shipper*

The Shipper, under the terms and conditions envisaged in the current Contract, commits to:

- a) deliver, or arrange for the delivery of, the injection at the Delivery Point through the Major Transport Company and to withdraw or to arrange for the withdrawal at the Redelivery Point through the Major Transport Company the gas that it owns according to the Injection Schedule and Withdrawal Schedule, with the operating procedures indicated in chapter 6;
- b) deliver, or arrange for delivery of, gas to the Storage Company through the Major Transport Company at the Delivery Point, whose quality must conform with the specifications contained in Annex 10A;
- c) deliver, or arrange for delivery of, gas to the Storage Company through the Major Transport Company at the Delivery Point that is at least at the minimum pressure indicated in chapter 11;
- d) not request the withdrawal of a quantity of gas that is greater than the quantity injected by the Shipper, which signed a contract for Storage Services, during the injection phase or is owned by the Shipper and held in stock;
- e) deliver, or arrange for the delivery by the Major Transport Company, the injection at the Delivery Point and to withdraw or to arrange for the withdrawal by the Major Transport Company at the Redelivery Point the gas that it owns according to the Injection Schedule and Withdrawal Schedule, with the operating procedures indicated in chapter 6, the quantities of space, capacity, performance and gas purchased or sold as part of the competitive procedures described in para. 5.8, 5.9.1, 5.9.2, and the procedures referred to in chap. 7;
- f) fulfil the commitments and obligations assumed towards other Shippers (selling/purchasing) and/or third parties;
- g) pay the fees for the Storage Services pursuant to para. 16.2, requested by the Storage Company, as well as any other amount that is due to the Storage Company as a result of the Contract's execution, according to the procedures established in this document;
- h) use the IT System in the manner and according to the timing envisaged by this Code, ensuring, in using said system, that procedures are adopted that do not in any way negatively impact the functionality provided for by the system and do not, in any case, hinder its operations, even temporarily.

If the Shipper, for any reason, does not deliver, or arrange for the delivery of, any quantity of Gas at the Delivery Point, the Shipper will have no liability whatsoever in relation to this missed delivery, but will be obliged only to pay the relative storage fees,

except in cases where the Shipper is released from this obligation pursuant to any other provision of this Contract.

17.1.2 Obligations of the Storage Company

The Storage Company, under the terms and conditions envisaged of this document, commits to:

- a) redeliver in Withdrawal equivalent quantities of gas, in terms of energy, to the quantities injected by the Shipper during the Injection phase;
- b) redeliver to the Shipper at the Redelivery Point quantities of gas, in terms of energy, in accordance with the confirmed daily reservations, at the quality and pressure values indicated in chapters 10 and 11;
- c) verify and confirm the reservations communicated by the Shipper, according to the procedures envisaged in the Storage Code;
- d) perform the activities necessary for the allocation of gas moved by each individual Shipper;
- e) accept delivery from the Major Transport Company on the Gas-Day of quantities of gas, expressed in energy, delivered or arranged for delivery by the Shipper at the Delivery Point (exit point of the transport network interconnected with storage sites), in accordance with the confirmed daily reservations, compliant with the quality and pressure specifications defined in the Storage Code;
- f) redeliver to the Major Transport Company on the Gas-Day the quantities of gas, expressed in energy, delivered or arranged for delivery by the Shipper at the Redelivery Point (entrance point of the transport network interconnected with storage sites), in accordance with the confirmed daily reservations, compliant with the quality and pressure specifications defined in the Storage Code;
- g) guarantee the availability of a transport capacity into and out of the Storage System adequate for the commitments assumed with Shippers following the signing of the contract;
- h) carry out transport capacity planning activities using the schedules received from Shippers as confirmed by the Storage Company;

In order to ensure transport capacity availability that is adequate for the commitments assumed with Shippers following the signing of the contract, the Storage Company requests the Major Transport Company to provide, in accordance with the provisions of Resolution 297/2012/R/Gas and, in any case, after the deadlines established in its Storage Code for capacity assignments, the transport capacity necessary to perform Storage Services, in the following ways:

- capacity at the exit point interconnected with the Storage System:
 - i. transport capacity for the April-March period, on an annual basis, determined as equal to the maximum Injection capacity available to Shippers based on the capacity assigned to them for the Mandatory Services with a one-year duration and based on the application of the maximum value of the adjustment coefficients of Injection capacity;
 - ii. transport capacity less than one year, determined as equal to the Injection capacity assigned to Shippers for the Modulation Service including the Constant Peaks of Modulation Service, with assignment on a monthly, weekly, daily and “period” basis, possibly greater than the transport capacity required by the Storage Company pursuant to the previous point;

- capacity at the entrance point interconnected with the Storage System:
 - i. transport capacity for the April-March period, on an annual basis, determined as equal to the maximum Withdrawal capacity available to Shippers based on the capacity assigned to them for the Mandatory Services with a one-year duration and based on the application of the maximum value of the adjustment coefficients of Withdrawal capacity;
 - ii. transport capacity less than one year, determined as equal to the Withdrawal capacity assigned to Shippers for the Modulation Service including the Constant Peaks of Modulation Service, with assignment on a monthly, weekly, daily and “period” basis, possibly greater than the transport capacity required by the Storage Company pursuant to the previous point;

- i) ensure that competitive procedures are organized in a manner that ensures transparency and non-discriminatory conditions for access to storage services by all Shippers;

- j) guarantee to all Shippers, in an impartial and non-discriminatory manner, access to the IT System, ensuring its correct operation, maintenance and updating, ensuring, in the event of a malfunction, alternative methods of performing the scheduled activities and timely notification of the start and duration of the malfunction and recovery of the service.

In order to comply with the aforementioned obligations, the Storage Company, pursuant to resolution 297/2012/R/Gas, operates based on the indications received from its Shippers and is not responsible for the accuracy and completeness of the data communicated by its Shippers. Therefore, the Shippers expressly acknowledge that no liability can be assigned to the Storage Company regarding the obligations carried out by the Storage Company in relation to the transport contract based on the data it received.

17.2 CONTRACTUAL NON-COMPLIANCE

17.2.1 Non-compliance by the Storage Company

17.2.1.1. Pressure specifications

If the gas made available by the Storage Company to the Shipper at the Redelivery Point does not comply with the pressure specifications envisaged in the Storage Code and in the absence of timely notification by the Storage Company, the Shipper will promptly inform the Storage Company and, without prejudice to the obligation to pay the storage fees, shall have the right to obtain from the Storage Company, upon submission of appropriate documentation, reimbursement for all costs and charges incurred as a result of the non-compliance with the pressure specifications, within the limits indicated in paragraph 17.3.

17.2.1.2. Quality specifications

If the gas made available by the Storage Company to the Shipper at the Redelivery Point does not comply with the quality specifications envisaged in the Storage Code, the Storage Company will promptly inform the Shipper and the Transport Company. The Transport Company shall have the right to refuse the withdrawal of said gas; furthermore, without prejudice to the obligation to pay the storage fees, the Shipper shall have the right to obtain from the Storage Company, upon submission of appropriate documentation, reimbursement for all costs and charges incurred as a result of the non-compliance with the quality specifications, within the limits indicated in paragraph 17.3.

17.2.1.3. Failure to perform the service

Except in cases of a) *force majeure* or b) external causes, if the Storage Company does not carry out the activities for which it is responsible in accordance with the Storage Contract and as a result of such behaviour it is impossible to perform the service, the Shipper, for the period in which the performance is suspended, will be released from any obligation associated with the payment of the capacity fee for the service not provided and will be entitled to obtain from the Storage Company, upon submission of appropriate documentation, reimbursement of all costs and charges incurred as a result of the failure to perform the service, within the limits set forth in paragraph 17.3 below.

17.2.2 Non-compliance by the Shipper

17.2.2.1. Pressure specifications

If the gas delivered or arranged for delivery by the Shipper to the Storage Company at the Delivery Point does not comply, for any reason, with the pressure specifications established in this Code and in the absence of timely notification by the Shipper, the Storage Company will promptly notify the Shipper and, in addition to being released from the obligation to inject in the system the quantities of gas scheduled by the Shipper for the period in question, to the extent that injection is not permitted by the actual delivery pressure, shall have the right to reduce the injection of the gas in question until the values for the pressure specifications described in this document are restored.

It is also understood that all costs and charges, appropriately documented, incurred by the Storage Company as a result of the non-compliance with the pressure specifications, shall be borne by the Shipper, within the limits indicated in paragraph 17.3 below, and without prejudice to the Shipper's obligation to pay storage fees.

17.2.2.2. Quality specifications

If the gas delivered or arranged for delivery by the Shipper to the Storage Company at the Delivery Point does not comply, for any reason, with the quality specifications established in this Code and in the absence of timely notification by the Shipper, the Storage Company will promptly notify the Shipper and the Transport Company and shall have the right to refuse the injection of the gas in question into the system.

It is also understood that all costs and charges, appropriately documented, incurred by the Storage Company as a result of the non-compliance with the quality specifications, shall be borne by the Shipper, within the limits indicated in paragraph 17.3 below, and without prejudice to the Shipper's obligation to pay storage fees.

17.3 LIABILITY LIMITATIONS

17.3.1 Wilful misconduct and gross negligence

The responsibilities of the Parties for any damage deriving, or in any case connected with, the execution, failure to perform or the partial or delayed performance of their obligations in effect from the signing of the Storage Contract is expressly limited only to cases of wilful misconduct and gross negligence.

17.3.2 Indemnity

Each Shipper commits to indemnify and hold the Storage Company expressly harmless from any wider claim or request for compensation as advanced/formulated against Edison Stoccaggio S.p.A by other Shippers for commitments and obligations assumed amongst these Shippers as part of and deriving from the competitive procedures pursuant to paras. 5.8, 5.9.1, 5.9.2, and the procedures referred to in chap. 7.

17.4 EARLY CONTRACT TERMINATION

17.4.1 Early termination by the Storage Company

In addition to the causes established by law, the Storage Contract may be terminated by the Storage Company, in advance with respect to the envisaged expiration, by sending a written communication to the Shipper, pursuant to Article 1456 of the Italian Civil Code, with copy to the Regulatory Authority, in the following cases:

- a) The Shipper no longer meets, for any reason, even one of the requirements for access to the system referred to in paragraph 5.2;
- b) Prolonged improper use of IT systems by the Shipper such as to: (i) render said IT systems totally or partially unusable; (ii) make it difficult for the Storage Company to fulfil its contractual obligations and/or exercise its rights towards Shippers in a timely manner;
- c) Prolonged breach of the payment obligation, by the Shipper, for fees of any type invoiced by the Storage Company and provided for in the Contract. The Shipper's failure to pay amounts due for 2 months of service constitutes a prolonged breach;
- d) Initiation by the Shipper of bankruptcy proceedings, receivership, extraordinary administration, arrangement or other insolvency procedures, including out of court;

- e) Resolution of liquidation or dissolution for any reason of the Shipper or effective termination of the Shipper's business activities;
- f) Revocation and/or cancellation, in whole or in part, of the financial guarantees referred to in Article 5.2 for any reason;
- g) Inability to perform the service due to *force majeure* or external cause, if an event classified as *force majeure* or an external event in paragraph 17.6 continues for a period exceeding two months.

In all the above cases of contractual termination, the following will occur:

- h) The Storage Company may suspend acceptance of the Shippers' schedules, notifying the Regulatory Authority, the Ministry of Economic Development, and the Major Transport Company;
- i) The Shipper will still be required to pay to the Storage Company the amounts effectively accrued, for any reason, including the related fees, up to the date of the Contract's termination. With the exception of contract termination due to *force majeure* or external causes, the Shipper will also be required to pay the Storage Company an amount resulting from the discounting - to the termination date and at a discount rate equal to the average annual rate of return on the 10-year treasury bonds for the last available year, increased by 0.75% - of the amounts representing the fees due by the Shipper for the period between the early termination date and the natural expiration date of the contract, as well as to compensation for additional damage caused to the Storage Company, relieving and indemnifying the latter with respect to any claim made in relation to damage caused to other parties;
- j) Without prejudice to any performance of the Deposit Service referred to in paragraph 3.3.1 of the Storage Code, Edison Stoccaggio, as depositary, shall also have the right to retain the quantities of gas that may be present in the system and will be automatically authorised in advance by the Shipper, without the need for any further communication, evidence or reason, notice or request to the Shipper, with no exceptions, to sell by auction the aforementioned gas to satisfy, as a priority, its credit balance and the costs incurred for the sale of gas by auction and using the latest available value of the "C_{MEM}" component referred to in Article 6 of the TIVG approved with resolution ARG/GAS 64/09 and subsequent amendments as the auction base.

17.4.2 Early termination by the Shipper

If an event occurs that prevents the Shipper from carrying out the Injection into or Withdrawal from the system for a consecutive period greater than 6 months starting from the date said event occurred, the Shipper may terminate the contract in advance by sending a written communication, with an initial notification by fax and/or e-mail, pursuant to Article 1456 of the Italian Civil Code.

This Shipper will, in any case, be obliged to pay the Storage Company the amounts referred to in paragraph 17.4.1 letter i).

If the capacities envisaged in the terminated Contract are assigned, in whole or in part, to another Shipper, the capacity fees collected by the Storage Company following the assignment of said capacity will be credited to the Shipper affected by the early termination.

17.5 TRANSFER OF THE CONTRACT

Neither of the Parties may transfer the Storage Contract to third parties without prior written authorisation from the other party, which cannot be denied if the third party meets the eligibility requirements set out in this Storage Code.

This written authorisation shall not be necessary if the purchasing Shipper is a subsidiary of the selling Shipper or under common control of another company pursuant to Article 2359, paragraph 1 of the Italian Civil Code and the transfer shall be effective from the date indicated in the transfer deed communicated by the selling Shipper to the Storage Company.

In the event of transfer, the Shipper commits to maintain all financial guarantees given in relation to the obligations deriving from the contract until these are replaced by the purchasing Shipper with equivalent guarantees.

17.6 FORCE MAJEURE

17.6.1 Definition

Force majeure is defined as any act by public authorities, an exceptional natural event for which a state of disaster has been declared by the competent authorities, strikes, failure to obtain authorisations, acts, facts or circumstances not attributable to the Party invoking this clause ("Party Concerned"), beyond the control of the Parties, and which could not be foreseen and/or avoided with ordinary diligence and at reasonable costs, having the effect of making it impossible or illegitimate to fulfil, all or in part, the obligations of the Party Concerned, as long as the cause of *force majeure* persists but exclusively when such circumstance affects the Storage Company's system.

17.6.2 Causes

Cases of *force majeure* include, but are not limited to, the following:

- a) adverse natural phenomena including lightning, earthquakes, landslides, fires and floods;
- b) explosions, radiation and chemical contamination;
- c) strikes, lock-outs and any other form of industrial unrest, with the exception of cases of business disputes, declared on occasions other than during collective bargaining, which directly concern the Storage Company or the Shipper;
- d) delay in obtaining or failure to obtain the necessary permits and/or concessions necessary for the Storage Service;
- e) defects, breakdowns, or failures in facilities, equipment or installations necessary for the system.

External causes are defined as:

- war, terrorist activities, sabotage, acts of vandalism, and riots.

17.6.3 Effects

The Party Concerned will be released from all liability regarding the breach of obligations envisaged in the Storage Contract, as well as for any damage or loss incurred by the other Party, to the extent that they are affected by *force majeure* or by an external cause and for the period in which this situation continues.

In the event of *force majeure* or an external event, the Party Concerned must however make every effort, to the extent possible, to limit the negative effects of the event in order to allow normal performance of its contractual obligations to resume as soon as possible.

The inability of a Party to fulfil its payment obligation is not considered *force majeure* or an external event.

17.6.4 Communications

The Party Concerned shall be required to notify the other Party in a timely manner of:

- a) the occurrence of the event that renders the fulfilment of the obligations, in whole or in part, impossible, providing a clear indication regarding the nature of the event and indicating, if a reasonable estimate can be made, the time that may be necessary to correct the situation;
- b) the status of the event, providing a regular update on the expected duration;
- c) the end of the *force majeure* or external event.

17.6.5 Impact on storage fees

If there is a situation of *force majeure* or an external cause, and for as long as this situation continues, the fee for Withdrawal and Injection capacity borne by the Shipper will be applied:

- a) *Pro-rata temporis*, in the event of total interruption of service performance;
- b) In proportion to the effective reduction of the quantities of gas delivered and/or redelivered to the Shipper at the Delivery and/or Redelivery Points, in the case of partial reduction of service performance.

17.7 ABSENCE OF TRANSFER OF OWNERSHIP OF GAS

With the exceptions described in paras. 5.2.1.1.1, 5.2.1.1.2, 5.2.1.1.3, 5.2.1.1.4, 5.10, 16.4.4, and 17.4.1, the delivery of the Gas at the Delivery Point or Redelivery Point from or on behalf of the Shipper does not entail the transfer of the right of ownership of said gas to the Storage Company, which will hold the gas for the sole purpose of performing the service, unless the latter performs the Custody Service referred to in paragraphs 3.3.1 *et seq.* of the Storage Code. The right of ownership of the delivered gas will remain at all times with the Shipper, as irregular deposit does not constitute custody of the gas by the Storage Company, pursuant to Article 1782 of the Italian Civil Code.

17.8 DISPUTE RESOLUTION

17.8.1 Competency of Regulatory Authority

In the event of disputes relating to the interpretation and application of the Storage Contract and until the adoption of the regulation referred to in Italian Law no. 481 of 14 November 1995, the Parties refer to Regulatory Authority to launch arbitration proceedings, according to the procedures defined by the authority in its regulations.

17.8.2 Temporary provisions

Until the Regulatory Authority issues the regulations defining the procedures for launching arbitration proceedings, any disputes will be governed according to the procedures indicated below.

17.8.3 Prior review

Any disputes that may arise between the Storage Company and the Shipper in relation to the interpretation and application of the Storage Contract, except in cases that, in the opinion of one of the Parties, require the use of precautionary and emergency measures, will be subject, on the initiative of each Party and with formal notice sent to the other, to the prior joint examination of the parties appointed for this purpose by the Storage Company and Shipper, chosen from top-level executives, in an attempt to reach a satisfactory agreement.

17.8.4 Judicial resolution

In the event that said settlement attempt does not have a positive outcome within sixty days from the date of the notice referred to in the previous paragraph - and without prejudice to the powers to resolve disputes attributed to the Regulatory Authority pursuant to Italian Law no. 481 of 14 November 1995 - each Party will have the right to appeal to the courts to resolve the dispute.

In this situation, the parties attribute exclusive jurisdiction to the Court of Milan.

17.8.5 Technical arbitration

All technical disputes, which are not settled amicably within 15 (fifteen) working days from the time a Party has communicated to the other the existence of the dispute, will be definitively resolved in accordance with the National Arbitration Regulation of the Chamber of Arbitration of Milan by a single arbitrator, who will be appointed, will proceed and will decide in accordance with said regulation. The Arbitrator must have suitable technical skills in the gas sector and, more specifically, with regard to the transport, unloading, regasification, storage and sale of gas. The arbitration will be held in Italian. The arbitration will take place in Milan. The Arbitrator will decide informally, in accordance with the law. The Arbitrator will make his/her decision in writing, stating the justifications, within 60 (sixty) working days from the date the appointment is accepted. The Arbitrator's decision will be final and binding for the Parties. The Parties waive any form of appeal except in the case of a conflict of interest, negligence, or error on the part of the Arbitrator.

17.9 APPLICABLE LAW

This document is governed by Italian law.

17.10 INTELLECTUAL PROPERTY

Any intellectual property rights made available by one of the Parties pursuant to the Storage Contract will remain the property of, and available to, said Party or its licensor.

17.11 CONFIDENTIALITY

17.11.1 Obligations of the Parties

All information regarding the activity of one of the Parties, including those deriving from the exchange of data in electronic form between the Storage Company and the Shipper pursuant to the Storage Code, should be considered confidential and may not be used by each Party, its employees and/or agents other than in relation to the execution of the Storage Code, nor can it be disclosed to third parties unless in compliance with the prior instructions or written authorisations of the Party to whom the information refers and upon the signing of a confidentiality clause by third parties.

17.11.2 Exceptions

Without prejudice to the provisions of the previous paragraph, information that shall not be considered confidential refers to:

- a) information that was in the public domain at the time it was disclosed or that became public due to causes other than the breach or fault of the receiving Party;
- b) information of which the receiving Party was already aware at the time it was disclosed by the other Party and for which there was no obligation of confidentiality;
- c) information whose confidentiality no longer applies when it is required to fulfil legal obligations or requests from the Regulatory Authority;
- d) information that the receiving Party has legally obtained from third parties without violating any confidentiality obligation towards the other Party;
- e) information on coordination between storage companies and transport companies pursuant to the Storage Code;
- f) information relating to the management of the “Gas Emergency Procedure” referred to in chapter 19 “Procedure for Passing from Normal Operating Conditions to General Emergency Conditions”;
- g) information communicated to administrative, regulatory or judicial bodies and/or authorities, and/or in any case in compliance with applicable laws or provisions.

17.11.3 Effectiveness of obligations

Confidentiality obligations indicated herein shall remain in effect for a period of 2 years from the effective date of termination or resolution of the contractual obligations that arose in execution of the Storage Code.

17.12 PRIVACY

With regard to Law no. 675/96 and subsequent amendments, (hereinafter, the “Law”), the Parties acknowledge that:

- a) the Shipper is the Data Controller (hereinafter, the “Controller”), pursuant to Article 1, paragraph 2, letter d) of the Law.
- b) The Storage Company has the experience, integrity, capabilities and structures required by Article 8 of the Law to perform the function of “Data Processor” (hereinafter “Data Processor”) and ensures full compliance with the governing provisions on the processing of personal data, including in relation to security. Given the above, the Parties agree that the Storage Company will be Data Processor, pursuant to Article 1, paragraph 2, lett. e) of the Law, with reference only to the processing operations and only to the data that the Storage Company will be required to handle in order to execute the contractual relationships referred to in the Storage Code.

In particular:

- c) the Shipper will prepare and send, at its own expense, modifications to the notification to the Italian Data Protection Authority, referred to in Articles 7 and 28 of the Law; it will also ensure the fulfilment of the obligation to inform its Appropriate Customers of the appointment of the Storage Company as Data Processor.
- d) The Storage Company:
 - will process the Shipper’s personal data in a lawful and proper manner, in compliance with governing legislation on privacy and within the limits of the processing performed by the Shipper, as identified in the notification to the Data Protection Authority referred to in Articles 7 and 28 of the Law;
 - will maintain the Shipper’s personal data pursuant to Articles 9 and 15 of the Law;
 - will identify - if necessary - the parties assigned the qualification of “Data Processor”, pursuant to Articles 8 and 19 of the Law, and, on the basis of the subsequent appointment deed, set forth the instructions to be given to said parties, monitoring the relative operations, in accordance with the combined provisions of the aforementioned articles;
 - will only carry out data processing operations that are strictly necessary to execute its contractual obligations, such as archiving and processing. The Transporter must carry out the aforementioned processing operations in accordance with the Shipper’s purposes for processing. Furthermore, the

Transporter cannot carry out any processing operations other than those mentioned, and the Shipper will indemnify the Transporter from any liability connected to processing operations under the Shipper's exclusive responsibility. In this regard, the Transporter will not be liable for the collection of personal data and the related obligations - such as obtaining the consent of the relevant parties - as well as the relevance and accuracy of the data. Thus, the Shipper will be solely responsible for any dispute concerning these activities;

- will comply with the instructions provided by the Shipper and will not be liable for any violations deriving from incomplete or incorrect instructions given by the Shipper, which will therefore release the Storage Company from any consequent or connected claim;
- will allow the Shipper to exercise the power of control, pursuant to Article 8 of the Law;
- will adopt the measures identified by the Shipper designed to allow the relevant party the effective exercise of rights envisaged in Article 13 of the Law, and will facilitate the exercise of these rights, within the limits of its scope of responsibility;
- will process, without delay and at the Shipper's request, any requests made by relevant parties, pursuant to the aforementioned Article 13 and Article 29, paragraph 2, of the Law, always within the limits of the functional operations scope of the Data Processor;
- will generally ensure compliance with the provisions of the Data Protection Authority, within the limits of its scope of responsibility.

The Storage Company may not adopt independent decisions regarding the purposes and methods of processing. In cases of need and emergency, the Storage Company shall inform the Shipper as soon as possible, so that the latter can take appropriate decisions. In any case, if the Shipper's instructions, legislative and/or regulatory amendments, as well as provisions of the Data Protection Authority involve additional costs and/or activities for the Transporter, the relative charges will be the exclusive responsibility of the Shipper.

The appointment of the Storage Company as Data Processor is effective throughout (and only for) the duration of the contract between the Parties.