

**ESSENTIAL INFORMATION (THE “ESSENTIAL INFORMATION”) PURSUANT TO ARTICLE 122 OF LEGISLATIVE DECREE DATED FEBRUARY 24, 1998 NO. 58 (THE “CFA”) AND ARTICLE 130 OF THE REGULATION ADOPTED WITH CONSOB RESOLUTION NO. 11971 ON MAY 14, 1999 (THE “ISSUERS’ REGULATIONS”)**

**Background**

On June 16, 2022, San Quirico S.p.A. (“**San Quirico**” or “**SQ**”), a company whose share capital is entirely owned by Unione Fiduciaria S.p.A. on behalf of the members of the Garrone family and the Mondini family, and its subsidiary Polcevera S.r.l. (“**Polcevera**”), on one side, and Net Zero Infraco S.à r.l., (“**HoldCo**”, or “**Net Zero Infraco**”), a company controlled by the investment fund IFM Net Zero Infrastructure Fund, SCSp, managed by IFM Investor Pty Ltd (the “**IFM Fund**”), on the other side, entered into an investment agreement (the “**Investment Agreement**”) setting forth the terms and conditions of a transaction aimed at establishing a long-term partnership between SQ and the IFM Fund concerning ERG S.p.A. (“**ERG**” or the “**Target**”) (the “**Transaction**”).

More in particular, the Investment Agreement provides, *inter alia*, the following main steps:

- (i) the sale to HoldCo – or to a corporate vehicle directly or indirectly controlled by HoldCo and designated by HoldCo for the purpose of acquiring all the rights and assume all the obligations granted to the same under the Investment Agreement (the “**Designee**”) – of a stake in the share capital of ERG: (a) equal to 6.905%, by Polcevera (respectively, the “**PLC Stake**” and the “**PLC Disposal**”) and (b) equal to 10.852%, by SQ (respectively, the “**First SQ Stake**” and the “**First SQ Disposal**”);
- (ii) the contribution in kind, in favour of a newly incorporated holding company (“**MidCo**”) to be set up by the Investor and SQ, of: (a) the PLC Stake and the First SQ Stake, by the Investor and (b) a stake in the share capital of ERG equal to 40.68%, by SQ (the “**Initial SQ Stake**”) (the “**First Contribution**”);
- (iii) the sale, by SQ to the Investor, of the remaining 4.128% stake in the share capital of ERG (respectively, the “**Second SQ Stake**” and the “**Second SQ Disposal**”) and the subsequent contribution in kind of the Second SQ Stake acquired by the Investor into MidCo (the “**Second Contribution**”); and
- (iv) the execution of a shareholders’ agreement as per the form attached to the Investment Agreement (the “**Shareholders’ Agreement**” and, together with the Investment Agreement, the “**Shareholders’ Provisions**”), regulating the relationship between SQ and Investor as shareholders of MidCo, to be entered into by: (i) SQ, (ii) HoldCo or the Designee, as the case may be (“**Investor**” or “**Investor HoldCo**”), (iii) a corporate vehicle to be incorporated by the IFM Fund or by a subsidiary thereof (the “**Investor ParentCo**” or “**ParentCo**”) which, in turn, will hold 100% of the corporate capital of the Designee (if any) and will be controlled, directly or indirectly, by HoldCo and (iv) MidCo (it being understood that Investor ParentCo and MidCo will be parties to the Shareholders’ Agreement for the sole purposes of certain provisions thereof), which will be effective as from the Closing Date (as defined below). In particular, the Shareholders’ Agreement sets forth certain rules regulating, *inter alia*, the corporate governance of MidCo and ERG as well as (i) the transferability regime of the shares which will be owned (a) with regard to MidCo, by SQ and the Investor and (b) with regard to ERG, by MidCo and (ii) any follow-on investments by the Investor to support ERG’s activities and strategic plans (the “**Follow on Investments**”).

Upon the date of completion of the Transaction (the “**Closing Date**”), SQ’s current direct and indirect shareholding in the share capital of ERG (equal to about 62.533%) will be held by MidCo, whose shareholder base will initially comprise a 65% shareholding held by SQ and a 35% shareholding held by the Investor.

SQ will remain the sole controlling entity of MidCo and, in turn, of ERG for the purposes of, *inter alia*, (x) applicable mandatory tender offer rules and (y) “IFRS 10 – Consolidated Financial Statement”. The Investor will be granted with certain minority rights aimed at protecting its investment in MidCo, without affecting said ability of SQ to exercise sole control on MidCo (and, indirectly, on ERG) from a legal and accounting perspective.

## 1. Type of Shareholders' Provisions

The Investment Agreement contains certain provisions falling within the scope of Article 122, paragraphs 1 and 5, letters b) and c) of the CFA, which are disclosed in this Essential Information.

The Shareholders' Agreement contains certain provisions falling within the scope of Article 122, paragraphs 1 and 5, letters b) and c) of the CFA, which are disclosed in this Essential Information.

## 2. Company whose financial instruments are subject to the Shareholders' Provisions

The companies whose financial instruments are subject to the Shareholders' Provisions are:

- (i) ERG S.p.A., a company incorporated under the laws of Italy, having its registered office in Genova, Via De Marini no. 1, registered with the Companies' Register of Genova under no. 94040720107, share capital equal to Euro 15,032,000, divided into no. 150,320,000 ordinary shares listed on the "Euronext Milan" regulated market organized and managed by Borsa Italiana S.p.A.;
- (ii) San Quirico S.p.A., a company incorporated under the laws of Italy, having its registered office in Genova, Via Martin Piaggio no. 17/4, registered with the Companies' Register of Genova under no. 04469810966, share capital equal to Euro 175,011,600 and currently holding – directly and indirectly, through its subsidiary Polcevera – no. 94,000,000 shares in the share capital of ERG, corresponding to an aggregate 62.533% of the current share capital of ERG;
- (iii) MidCo, a corporate vehicle to be incorporated under the laws of Italy as a joint stock company (*società per azioni*), whose share capital, at the Closing Date, will be owned as follows: (i) no. 6,500,000 special class shares named "class A shares", with no par value, representing 65% of the share capital of MidCo and entitling to an equal number of voting rights, held by SQ (the "**Class A Shares**") and (ii) no. 3,500,000 special class shares named "class B shares", with no par value, representing 35% of the share capital of MidCo and entitling to an equal number of voting rights, held by the Investor (the "**Class B Shares**"). For the sake of clarity, on the Closing Date MidCo will hold no. 94,000,000 shares in the share capital of ERG, corresponding to an aggregate 62.533% stake (the "**MidCo Stake in ERG**").

## 3. Voting rights related to the total number of shares granted

The Shareholders' Provisions contain undertakings concerning:

- (i) all of ERG's shares currently held by San Quirico and Polcevera, equal to, respectively: (i) no. 83,619,940 shares corresponding to 55.628% of the current share capital of ERG, entitling to an equal number of voting rights, deposited with Monte Titoli S.p.A.; and (ii) no. 10,380,060 shares corresponding to 6.905% of the current share capital of ERG, entitling to an equal number of voting rights, deposited with Monte Titoli S.p.A., which, upon completion of the Transaction, will be directly held by MidCo; and
- (ii) all the shares of MidCo to be held by SQ and the Investor (*i.e.*, the Class A Shares and the Class B Shares).

For the sake of clarity, notwithstanding the provisions under Paragraph 5.8 below, all the ERG shares currently held by SQ and Polcevera are registered with the Special List of ERG for the Increased Voting Rights and, upon completion of the relevant holding period (*i.e.*, on July 1, 2022), SQ and Polcevera will be entitled to the Increased Voting Rights, in accordance with the applicable provisions of both the by-laws of ERG and the relevant Increased Voting Rights Regulation<sup>1</sup>.

<sup>1</sup> For the purposes of this Essential Information:

- (i) "**Increased Voting Rights**" means the right disciplined by Article 127-*quinquies*, paragraph 2, of the CFA, provided for under ERG's by-laws, that allows shareholders registered with a special list, following an uninterrupted 24-month holding period, to benefit from two voting rights per ERG share registered therein.
- (ii) "**Special List**" means the special list where the shareholders of ERG register their relevant shares in order to gain, following an uninterrupted 24-month holding period, the increased voting right disciplined by Article 127-

#### 4. Parties to the Shareholders' Provisions

The Parties of the Investment Agreement are, as detailed in the Background section:

- (i) San Quirico S.p.A., with registered office in Via Martin Piaggio no. 17/4, Genova, registered with the Companies' Register of Genova under no. 04469810966, share capital equal to Euro 175,011,600, which, as of the date of this Essential Information, holds no. 83,619,940 shares corresponding to 55.628% of ERG's current share capital, entitling to an equal number of voting rights, deposited with Monte Titoli S.p.A;
- (ii) Polcevera S.r.l., with registered office in Via Martin Piaggio no. 17/4, Genova, registered with the Companies' Register of Genova under no. 97197490150, corporate capital equal to Euro 10,741,500, which, as of the date of this Essential Information, holds no. 10,380,060 shares corresponding to 6.905% of ERG's current share capital, entitling to an equal number of voting rights, deposited with Monte Titoli S.p.A ;
- (iii) Net Zero Infraco S.à r.l., a company incorporated under the laws of the Grand Duchy of Luxembourg, having its registered office in Rue de Bitbourg no. 9, 1273 Luxembourg, Grand Duchy of Luxembourg, registered with the Companies' Register of Luxembourg under no. B261762, corporate capital equal to Euro 22.000.

The Parties to the Shareholder Agreement will be, as detailed in the Background section:

- (i) San Quirico S.p.A., with registered office in Via Martin Piaggio no. 17/4, Genova, registered with the Companies' Register of Genova under no. 04469810966, share capital equal to Euro 175,011,600, which, as at the Closing Date, will hold the Class A Shares; and
- (ii) Investor HoldCo, a corporate vehicle directly or indirectly controlled by the IFM Fund, which, as at the Closing Date, will hold the Class B Shares; and, in respect of certain specific provisions of the Shareholders' Agreement only
- (iii) Investor ParentCo, a corporate vehicle to be incorporated by the IFM Fund or by a subsidiary thereof, which, as at the Closing Date, will hold, directly or indirectly, the entire share capital of Investor HoldCo (if HoldCo exercises the right of designation described under Paragraph 5.2 below) and controlled, directly or indirectly, by HoldCo; and
- (iv) MidCo, a corporate vehicle to be incorporated under the laws of Italy as a joint stock company (*società per azioni*) which, as at the Closing Date, will hold no. 94,000,000 ERG shares, corresponding to an aggregate 62.533% stake.

#### 5. Agreements having a shareholder nature contained in the Shareholders' Provisions

##### Section I – Main contents of the Shareholders' Provisions provided for in the Investment Agreement

##### 5.1 Subject matter

The Investment Agreement sets out the provisions concerning the Transaction and, more specifically, the different steps envisaged, summarized as follows:

- (a) the incorporation of MidCo in the form of a joint stock company (*società per azioni*);
- (b) the sale of the PLC Stake by PLC to HoldCo;
- (c) the sale of the First SQ Stake by SQ to HoldCo;

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*quinquies*, paragraph 2, of the CFA and by the ERG's by-laws, that allows such shareholders to benefit from two voting rights per share registered;

- (d) following the completion of the PLC Disposal and the First SQ Disposal, the contribution in kind, pursuant to Articles 2343 and ff. and 2440 of the Italian Civil Code, in favour of MidCo of the Initial HoldCo Stake<sup>2</sup> and the Initial SQ Stake;
- (e) upon completion of the First Contribution, the sale of the Second SQ Stake, by SQ to HoldCo, and the subsequent contribution in kind, pursuant to Articles 2343 and ff. and 2440 of the Italian Civil Code, of the Second SQ Stake by HoldCo into MidCo.

### 5.2 *HoldCo's right of designation*

Upon designation by HoldCo, the Designee will acquire all rights and assume all obligations under the Investment Agreement provided that such designation is made in accordance with, *inter alia*, the following provisions:

- (a) the Designee will be a directly or indirectly wholly owned subsidiary of the HoldCo;
- (b) anything in Article 1403 of the Civil Code to the contrary notwithstanding, the designation will be deemed validly made if it is contained in a notice in writing to the Sellers, together with the written unconditional and irrevocable acceptance by the Designee of the designation and the terms and conditions of the Investment Agreement, including the express acceptance of the arbitration clause provided thereunder (the “**Designation Notice**”);
- (c) the Designation Notice will have to be delivered to the Sellers – under penalty of forfeiture (*a pena di decadenza*) – no later than 15 business days prior the Closing Date; and
- (d) the Designee will acquire all rights and assume all obligations of HoldCo under the Investment Agreement, pursuant to Article 1404 of the Italian Civil Code effective as from the date on which the Designation Notice has been sent to the Sellers.

### 5.3 *Set up of MidCo*

In due time for allowing the performance of all the activities that must be carried out before Closing Date, SQ and HoldCo shall incorporate MidCo, under the laws of Italy, in the form of a joint stock company (*società per azioni*). MidCo's corporate capital shall be equal to Euro 50,000, to be fully paid by SQ and HoldCo for an amount equal to, respectively, 65% and 35% and, accordingly, (ii) divided into: (a) no. 325,000 Class A Shares, representing the 65% of MidCo's share capital, to be allotted to SQ; and (b) no. 175,000 Class B Shares, representing the remaining 35% of MidCo's share capital, to be allotted to HoldCo.

Upon incorporation of MidCo, SQ and the Investor (jointly, the “**MidCo Shareholders**”) shall: (i) appoint a board of directors composed of 2 directors, of which 1 director appointed by SQ (that shall serve as chairman) and 1 (one) director appointed by HoldCo, to be granted with executive powers to carry out, with joint signature, any all actions MidCo must carry out under the Investment Agreement up to the appointment of a new board of directors of MidCo (as per Paragraph 5.4 below), and (ii) appoint the board of statutory auditors composed as follows:

- (a) 2 effective auditors and 1 alternate auditor to be designated by SQ; and
- (b) 1 effective auditor, to be appointed as chairman, and 1 alternate auditor to be designated by HoldCo.

Should the Conditions Precedent (as defined below) not be fulfilled in compliance with the terms and conditions set out under the Investment Agreement before December 31, 2022, or any later date agreed by the relevant parties (the “**Long Stop Date**”), or should HoldCo exercise its withdrawal right as provided under the Investment Agreement (see Paragraph 6 below), SQ and HoldCo shall initiate the dissolution and liquidation of MidCo, no later than 10 business days following: (a) the delivery of the communication by HoldCo of its intention to withdraw from the Investment Agreement or (b) the earlier of (i) the date on which HoldCo

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<sup>2</sup> For the purposes of the Essential Information, “Initial HoldCo Stake” means the stake held by HoldCo in ERG upon completion of the PLC Disposal and First SQ Disposal.

communicated to SQ and Polcevera that the Conditions Precedent are not satisfied and (ii) the Long Stop Date, and procure that it is completed as soon as reasonably practicable.

#### **5.4 MidCo's Board of Directors Resolutions**

Within 3 business days from the fulfilment of the Conditions Precedent (as defined below), MidCo Shareholders shall convene an ordinary and extraordinary shareholders' meeting of MidCo, to be held before a notary public to be jointly selected by MidCo Shareholders (the "**Notary Public**"), as soon as reasonably practicable, that shall resolve upon and approve:

- (a) the adoption of a new version of MidCo's by-laws (the "**New By-Laws**"), that shall reflect, to the maximum extent permitted by the applicable laws and regulations, the provisions of the Shareholders' Agreement and shall become effective upon Closing;
- (b) the appointment of a new board of directors of MidCo to be composed as follows:
  - (i) 4 directors to be designated by SQ, of which 1 shall serve as chairman; and
  - (ii) 3 directors to be designated by HoldCo.

#### **5.5 Resignation and Replacement of Target's Director**

On or prior to the Closing Date, San Quirico shall cause the resignation from office of one non-independent member of the board of directors of the Target (the "**Resigning Target Director**"), effective upon Closing Date, through the delivery of a resignation letter to San Quirico and Target, confirming that no claims for compensation or damages against Target and/or San Quirico by reason of his/her office, including any damage for termination, loss of office or otherwise (except for any remuneration or compensation for services rendered and accrued until the date of resignation and not yet duly paid).

San Quirico undertakes to cause, on the Closing Date, the board of directors of Target to be convened and to replace by co-optation (*cooptazione*) the Resigning Target Director with a director that will be indicated in writing by HoldCo no later than 5 business days prior to the Closing Date in accordance with the provisions of the Shareholders' Agreement.

#### **5.6 Conditions Precedent**

Completion of the Transaction is subject to certain regulatory approvals which are market standard for this type of transactions (the "**Conditions Precedent**"), it being understood that such clearances (the "**Clearances**") could be obtained also by tacit consent of the relevant public authority. To this end, the Parties shall co-operate in good faith and use their best efforts as to obtain such Clearances, avoiding delays, impairments or impediments and omitting any action that could have the effect of delaying, impairing or impeding the receipt of such Clearances.

#### **5.7 Execution of the Shareholders' Agreement**

On the Closing Date, San Quirico, Investor, Investor ParentCo and MidCo shall enter into the Shareholders' Agreement.

#### **5.8 Resolutions of the Board of Directors of MidCo and Target**

On the Closing Date, upon completion of the relevant actions provided under the Investment Agreement, SQ shall cause:

- (a) the board of directors of MidCo to:
  - (i) register all ERG shares held by MidCo in the Special List for the Increased Voting Rights of ERG, in light of the circumstance that, following the completion of the PLC Disposal, First SQ Disposal and Second SQ Disposal, the ERG shares originally held by San Quirico and Polcevera will lose, depending on the Closing Date, the accrued holding period functional or, directly, the Increased Voting Rights;

- (ii) approve the direction and coordination regulation, as provided under the Investment Agreement, and notify to the Target the beginning of the direction and coordination activity (*attività di direzione e coordinamento*) by MidCo, in order to comply with Article 2497 and ff. of the Italian Civil Code; and
  - (iii) in accordance with Article 2436, par. 6, Italian Civil Code, file with the companies' register the text of the New By-Laws.
- (b) the board of directors of the Target to:
- (i) replace by co-optation (*cooptazione*) the Resigning Target Director with a director indicated in writing by HoldCo, pursuant to the provisions set forth under the Investment Agreement; and
  - (ii) approve the direction and coordination regulation, as provided under the Investment Agreement, and take all necessary actions to comply with the disclosure obligations set forth by Article 2497-*bis* Italian Civil Code.

## 5.9 Standstill

In the period comprised between the execution of the Investment Agreement and the Closing Date, neither: (i) SQ and/or Polcevera; (ii) HoldCo; nor (iii) any of the entities respectively falling within the definition of "Affiliate" under the Investment Agreement, shall (a) acquire, trade, agree, offer or commit to acquire, trade, agree or solicit an offer to sell any securities issued by Target or any of its subsidiaries (the "**Relevant Securities**"), or any derivative products mainly related to the Relevant Securities, or any rights, warrants or options to acquire the Relevant Securities, or any other instrument convertible into or exchangeable for the Relevant Securities; (b) enter into any agreement or arrangement with any person involving the conferring of rights, the economic effect of which is equivalent or substantially equivalent to the acquisition, or holding of the Relevant Securities; and (c) aid, abet, counsel or induce any other person in doing, or publicly announce that it will do, any of the things mentioned sub (a) and (b) above, all the above with the express exclusion of trading activities in any Relevant Securities as performed by the IFM Fund and/or its Affiliates and/or its and its Affiliates' directors, officers and employees in the ordinary course of business and/or through separated divisions (including the IFM Fund's listed equities division) which are not involved in any manner, directly or indirectly, in the Transaction, all the above in compliance with the provisions set forth under the Investment Agreement.

### Section I – Main contents of the Shareholders' Provisions provided for in the Shareholders' Agreement

#### 5.10 Key Governance Principles

San Quirico and Investor HoldCo (for the purposes of the Shareholders' Agreement, jointly, the "**Parties**") mutually agree on their common purpose and firm intention that ERG: (i) continues to be listed on the Euronext Milan market managed and organised by Borsa Italiana S.p.A. ("**Euronext Milan**"); (ii) continues to be controlled, also under an IFRS 10 – *Consolidated financial statements* point of view, solely by San Quirico, (iii) maintains an efficient corporate governance pattern, in compliance with, and leveraging on, the best practices and standards of governance applicable to domestic and foreign public listed companies of comparable size, (iv) remains subject to a limited and selected direction and coordination activity exercised by MidCo in accordance with the regulation concerning the exercise by MidCo of the selective direction and coordination activity over ERG (named "*Selective D&C Regulation*"), to be enacted by MidCo on the date of execution of the Shareholders' Agreement (*i.e.*, the Closing Date), in relation to limited matters (the "**D&C Regulation**").

The Parties also acknowledge and agree that nothing provided in the Shareholders' Agreement shall be intended or construed as conferring upon MidCo and/or either of the Parties any right to interfere with the ordinary management of ERG.

Notwithstanding anything to the contrary in the Shareholders' Agreement, the Parties also agree, *inter alia*, that (i) ERG and its subsidiaries (the "**ERG Group**") shall be managed by a highly specialised management

team which shall be well received by the institutional investors, leveraging on the professionalism at the various organizational level of the internal resources of the ERG Group and (ii) share the view that the key performance indicators for the compensation of the ERG top management and executive directors should include growth and sustainability objectives in line with the relevant best practices, as applied from time to time.

Each Party shall, *inter alia*, (i) exercise its voting and other rights as shareholder of MidCo in order (insofar as it is able to do so through the exercise of such rights) to give full effect to the provisions of the Shareholders' Agreement and (ii) procure, to the maximum extent permitted under applicable laws, that any director appointed from time to time in MidCo and/or ERG upon designation of the respective Party pursuant to the Shareholders' Agreement shall exercise his/her voting rights, as well as any other power and authority granted to him/her/them, in order to give full effect to the provisions of the Shareholders' Agreement, it being understood that: (a) each director of MidCo and/or ERG shall maintain her/his independence and her/his fiduciary duties under applicable law and, notwithstanding any provisions in the Shareholders' Agreement to the contrary, he/she shall not in any way be liable towards the Parties for having voted inconsistently with the Parties' indications and recommendations; and (b) each Party shall remain liable towards the other Party, pursuant to the provisions of Article 1381 of the Civil Code, in case any director appointed from time to time in MidCo and/or ERG, upon their respective designation, exercises his/her voting rights and other powers and authorities contrarily to the provisions of the Shareholders' Agreement.

It is agreed and understood that: (i) the Parties and/or any of the entities respectively falling within the definition of "Affiliate" under the Shareholders' Agreement (hereinafter, the "**Affiliates**" and each one, individually, an "**Affiliate**") (including the IFM Fund but other than (x) ERG, (y) the IFM Fund's investors or managed accounts, and (z) other funds managed and/or advised by the IFM Fund or its Affiliates (and such other funds' investors or managed accounts)) shall not directly purchase or come to hold any ERG share and/or voting rights in relation thereto (the "**Stapled Securities**") by more than 2.5% of the outstanding shares of ERG from time to time (the "**Stapled Securities Threshold**"); and (ii) if any of the Parties and/or their Affiliates (including the Fund but other than (x) ERG, (y) the Fund's investors or managed accounts, and (z) other funds managed and/or advised by IFM or its Affiliates (and such other funds' investors or managed accounts)) directly purchases or comes to hold Stapled Securities within the Stapled Securities Threshold, then (a) the voting rights attached to the Stapled Securities shall be exercised in accordance with the provisions of the Shareholders' Agreement and (b) the Stapled Securities shall be treated as if they were part of the MidCo Stake in ERG.

### **5.11 By-Laws of MidCo**

The Parties acknowledge and agree that the corporate purpose of MidCo is limited to the holding, the management and the purchase and/or disposal (in compliance with the provisions set out under the Shareholders' Agreement) of the ERG shares held by it from time to time.

### **5.12 Board of Directors and Officers of MidCo**

For the entire duration of the Shareholders' Agreement, the board of directors of MidCo (the "**MidCo Board of Directors**") shall be composed of 7 members to be designated as follows:

- (a) 4 directors by San Quirico (the "**SQ MidCo Directors**"); and
- (b) 3 directors by the Investor (the "**Investor MidCo Directors**"), that shall not be granted with executive powers (except for the chief financial officer, when to be appointed among the Investor MidCo Directors, as better detailed below).

The members of the MidCo Board of Directors will be appointed for three financial years, and they may be re-appointed upon expiration of their office.

The Parties agree that, *inter alia*, the director(s) which intend(s) to call the MidCo Board of Directors shall consult with the chief executive officer and the chief financial officer on the date and time of such meeting, so

to allow, to the extent reasonably possible, the participation of directors designated by both SQ and the Investor.

The chairman of the MidCo Board of Directors shall be appointed by the MidCo Board of Directors, upon designation of SQ, among the SQ MidCo Directors. The chairman shall have no casting vote.

The chief executive officer of MidCo shall be appointed by the MidCo Board of Directors, upon designation of SQ, among the SQ MidCo Directors. MidCo Shareholders shall procure – to the extent permitted under applicable laws and each within its own competence – that the SQ MidCo Directors and the Investor MidCo Directors respectively designated by them vote in favor of the appointment of, and/or however retain, the chief executive officer of MidCo so selected by SQ. Upon such appointment, the MidCo Board of Directors shall grant the chief executive officer of MidCo with the appropriate delegated powers.

The chief financial officer of MidCo shall be appointed by the MidCo Board of Directors, upon designation of the Investor, among the Investor MidCo Directors. MidCo Shareholders shall procure – to the extent permitted under applicable laws and each within its own competence – that the SQ MidCo Directors and the Investor MidCo Directors respectively designated by them vote in favor of the appointment of, and/or however retain, the chief financial officer of MidCo so appointed by the Investor. Upon such appointment, the MidCo Board of Directors shall grant the chief financial officer of MidCo with the appropriate delegated powers. It is however understood that, at any time, the Investor shall have the right to designate, at its sole discretion, a new chief financial officer of MidCo, which is not a member of the MidCo Board of Directors (the “**New CFO**”), by appointing an external candidate to be selected in accordance with the criteria set forth in the Shareholders’ Agreement and the identity of which shall be disclosed – in writing and in advance – by the Investor to SQ. In such a case, MidCo shall hire the New CFO, which shall therefore become an employee thereof.

The above provisions (as better detailed in the Shareholders’ Agreement) shall apply to the extent the Investor holds an aggregate stake (also taking into account the stake held by any Permitted Transferee, as defined below) in MidCo in excess of or equal to the 25% of MidCo share capital (the “**First Governance Threshold**”). Should its aggregate stake (also taking into account the stake held by any Permitted Transferee, as defined below) be comprised between 16% of MidCo share capital (the “**Second Governance Threshold**”) and the First Governance Threshold (less one share), then 6 SQ MidCo Directors will be designated by San Quirico and 1 Investor MidCo Director will be designated by the Investor. In case the Investor’s stake in MidCo falls below the Second Governance Threshold, then all Investor MidCo Directors of MidCo will be designated by San Quirico.

In case of reduction of the Investor’s stake below the First Governance Threshold or the Second Governance Threshold, as the case may be, the Investor shall procure the immediate resignation(s) of the Investor MidCo Director(s) designated by it and, pursuant to Article 2386, paragraph 1, of the Civil Code, the MidCo Board of Directors will appoint new director(s), so as to give full effect to the above provisions.

Should a director designated and appointed in accordance with the above provisions resign or, otherwise, cease for any reason whatsoever to hold his/her office, then, the Party which designated the ceased director shall be entitled to designate the new director in order to preserve the composition of the MidCo Board of Directors set out above.

Any director or officer designated in accordance with the provisions set forth under the Shareholders’ Agreement can be removed (with or without cause), from time to time, and at any time, by MidCo’s shareholders’ meeting or MidCo Board of Directors meeting (as the case may be), upon request of the Party which designated him/her. The requesting Party shall indemnify MidCo and/or the other Party against any claims or actions which the removed director or officer may, respectively, advance or bring in connection with such removal.

### **5.13 Board of Statutory Auditors of MidCo**

For the entire duration of the Shareholders’ Agreement, the board of statutory auditors of MidCo (the “**MidCo**



**Board of Statutory Auditors**”) shall be composed as follows:

- (a) 2 standing members and 1 alternate member shall be designated by San Quirico; and
- (b) 1 standing member, who will act as chairman of the Board of Statutory Auditors, and 1 alternate member shall be designated by the Investor.

In case of reduction of the Investor’s stake below the First Governance Threshold, the Investor will lose the right to appoint any auditor and shall use its best efforts to procure their resignation and replacement with auditors designated by San Quirico.

Should any standing and/or alternate auditor designated in accordance with the provisions set forth under the Shareholders’ Agreement resign or, otherwise, cease for any reason whatsoever to hold his/her office prior to the expiry of the terms thereof, the Party which designated the ceased auditor shall designate the new auditor in order to preserve the composition of the board of statutory auditors set out above.

#### **5.14 Resolutions of the Shareholders’ Meeting of MidCo**

The decisions of the shareholders’ meeting of MidCo on the following matters shall only be validly taken by the shareholders’ meeting of MidCo (whether on first call, second call or in plenary form, to the extent permitted by applicable law) with the presence and favorable vote of the Investor (the “**MidCo Shareholders’ Vetoed Matters**”):

- (a) changes to the corporate purpose (“*oggetto sociale*”);
- (b) merger, demerger, liquidation, reorganization (*trasformazione*), bankruptcy or similar proceedings (except as required by law);
- (c) acquisition by MidCo of treasury shares, except if the acquisition of treasury shares of MidCo is carried out in the event SQ intends to sell to MidCo part of its shares in MidCo following the completion of the disposal of ERG Shares pursuant to the following Paragraph 5.29 of this Essential Information (the “**ERG Disposable Stake**”);
- (d) issuance of any shares or securities (including bonds) convertible in ERG shares and/or MidCo shares;
- (e) variation in the share capital or amendment of voting rights attached to MidCo shares, except for (i) the cases under Articles 2446 or 2447 of the Civil Code, (ii) any capital increase reserved to the Investor in connection with any Follow on Investments (as defined below), and (iii) any Carved-Out Capital Increases (where “**Carved-Out Capital Increase**” means a rights issue of MidCo (*aumento di capitale in opzione*) necessarily and concurrently meeting certain conditions set forth under the Shareholders’ Agreement);
- (f) any change to the Agreed Dividend Policy (as defined below) and/or distributions of dividends and/or reserves different from what is included in the Agreed Dividend Policy (as defined below);
- (g) appointment or change of the external auditors; and
- (h) amendments to MidCo By-Laws that would (x) materially impair the exercise of the minority protection rights of Investor under the Shareholders’ Agreement or (y) trigger the shareholders’ withdrawal right according to applicable laws.

The above provisions (as better specified in the Shareholders’ Agreement) shall apply to the extent the Investor holds a stake in MidCo in excess of or equal to the First Governance Threshold. Should its stake be comprised between the Second Governance Threshold and the First Governance Threshold (less one share), then the above provisions shall immediately cease to apply and the MidCo Shareholders’ Vetoed Matters shall be intended to include exclusively (i) capital increases of MidCo without pre-emption right (*aumenti di capitale riservati*), (ii) changes to the corporate purposes (*oggetto sociale*), (iii) amendments to MidCo By-Laws that would (x) materially impair the exercise of the minority protection rights of Investor as provided under the Shareholders’ Agreement pursuant thereto (limited to those minority protection rights of Investor that remain

unaffected in case its stake is comprised between the Second Governance Threshold and the First Governance Threshold (less one share)), or (y) trigger the shareholders' withdrawal right according to applicable law (including the transfer of the registered office of MidCo abroad).

Under no circumstances, even in the case referred to under letter (c) above, the Investor shall come to hold a stake in MidCo in excess of 49% (forty-nine percent) of MidCo's share capital.

### **5.15 Resolutions of the Board of Directors of MidCo**

Any resolution concerning the exercise of the voting rights and/or other rights attached to the MidCo Stake in ERG shall be reserved to the competence of the MidCo Board of Directors and shall not be delegated to any member of the MidCo Board of Directors.

Decisions of the MidCo Board of Directors relating to the following matters shall (i) not be delegated to any members of the MidCo Board of Directors and (ii) shall require the presence and the favorable vote of at least 1 (one) Investor MidCo Director and 1 (one) SQ MidCo Director ("**MidCo Board Vetoes Matters**"):

- (a) voting instructions to MidCo's representatives in the shareholders' meeting of ERG in respect of any of following matters (the "**ERG Shareholders' Meeting Vetoes Matters**"):
  - i. changes to the corporate purpose ("*oggetto sociale*");
  - ii. mergers and demergers (but excluding mergers and partial proportional demergers pursuant to Articles 2505 and 2505-*bis* of the Italian Civil Code), liquidation, bankruptcy or similar proceedings (except as required by law);
  - iii. authorization to the purchase of treasury shares, to the extent the relevant resolution materially deviates from those adopted by ERG ordinary shareholders' meeting in 2020, 2021 and 2022 (exception being made for any deviation that is consequence of change in the applicable laws);
  - iv. any variation in the share capital of ERG (or rights attached to ERG shares) and/or issue of ERG shares, except for (x) in the cases under Articles 2446 or 2447 of the Italian Civil Code, (y) the issuance of ERG shares is aimed at servicing incentive plans addressed to ERG directors and/or employees of the ERG Group approved after the Closing Date, provided that the underlying plans are adopted in compliance with the ERG remuneration policy as approved by ERG shareholders' meeting from time to time and that the maximum amount of ERG shares to be issued to service such plans does not exceed 2% of the share capital of ERG on a fully-diluted basis; and (z) rights issues ("*umenti di capitale in opzione*"), provided that the relevant subscription price is not below the fair market value of ERG shares, to be calculated in accordance with the criteria set forth in the Shareholders' Agreement;
  - v. without prejudice to any equity incentive plans pursuant to the above provisions, any issue of securities (including bonds) convertible in ERG shares;
  - vi. any change to the Agreed Dividend Policy (as defined below) and/or distributions of dividends or reserves different from what is included in the Agreed Dividend Policy (as defined below);
- (b) issue of bonds, assumption of guarantees or financial indebtedness (including refinancing) and granting security, for an amount which would result in the existing indebtedness of MidCo at that time to exceed, in aggregate, Euro 1,500,000, to be used for MidCo's working capital and ordinary operations' needs;
- (c) grant of any security over ERG Shares;
- (d) transactions with related parties (as defined in Article 3, Paragraph 1, letter a), of the regulation on the transactions with related parties adopted by Consob with resolution no. 17221 dated March 12, 2010 (as subsequently amended and supplemented));
- (e) entering into any shareholders' agreement and/or any other agreement concerning ERG shares and/or the rights attached thereto or any security (including bonds) convertible in ERG shares;

- (f) without prejudice to any provision to the contrary under the Shareholders' Agreement, acquisition or disposal of ERG Shares, save for (i) any subscription of newly-issued ERG shares that would be acquired by using the proceeds arising from the Investor's Follow on Investment (as defined below) and/or any Carved-Out Capital Increase and (ii) starting from the date falling on the 40<sup>th</sup> month following the Closing Date, disposal of ERG shares by MidCo up to 1% (one percent) in the aggregate of the outstanding ERG share capital, provided that, after such sale(s), (x) the MidCo Stake in ERG remains above 51% and (y) the voting rights attached to the MidCo Stake in ERG, for any reason, remain above 66.67% of the aggregate voting rights at the time of each sale, and (z) the proceeds deriving from such sales(s) are distributed to SQ in accordance with the provisions set forth under the Shareholders' Agreement;
- (g) operating expenses pertaining to MidCo in excess of Euro 375,000 per year;
- (h) capital expenses pertaining to MidCo in excess of Euro 100,000 per year;
- (i) change of MidCo accounting standards;
- (j) approval of the fair market value per MidCo share for the purposes of acquisition by MidCo of treasury shares, to the extent permitted under the Shareholders' Agreement;
- (k) issuance of any guidance to ERG in execution of the direction and coordination activity exercised by MidCo in compliance with the D&C Regulation, as well as ending, and/or amending the terms and condition of, such direction and coordination activity exercised over ERG; and
- (l) proposals to the shareholders' meeting of MidCo on any MidCo Shareholders' Vetoed Matters.

The above provisions shall apply only to the extent the Investor holds a stake in MidCo exceeding or equal to the First Governance Threshold. Notwithstanding the foregoing, should Investor's stake be comprised between the Second Governance Threshold and the First Governance Threshold (less one share), the MidCo Board Vetoed Matters shall be intended to include exclusively those matters under letters (d) and (l).

### **5.16 Deadlock**

If, at any time the MidCo Board of Directors or MidCo Shareholders meeting fails for 2 consecutive meetings to adopt a resolution on any of the MidCo Board Vetoed Matters or MidCo Shareholders' Vetoed Matters, as applicable, as a result of the Investor MidCo Director(s) or the Investor not voting in favor of a resolution on the relevant matter (a "**Deadlock**"), the Parties undertake in good faith (i) to cooperate in case a Deadlock arises and (ii) to exercise their best efforts to resolve a Deadlock in accordance with the provisions of the Shareholders' Agreement.

### **5.17 Composition of the Board of Directors of ERG**

The Parties acknowledge that the board of directors of ERG is currently composed of 12 members and that, on the Closing Date, (i) one non-independent member of such board will resign from the office, (ii) the board of directors of ERG will appoint by co-optation ("*cooptazione*") a new director to be designated by the Investor, which will be appointed as member of the Strategic Committee (as defined below). Upon the next ERG's shareholders' meeting, SQ shall procure that MidCo exercises its voting rights so as to confirm the appointment as director of ERG.

Starting from the first renewal of the board of directors of ERG after the Closing Date, SQ shall procure that MidCo exercises its voting rights in the ERG shareholders' meeting so that:

- (a) the board of directors of ERG is composed of 12 members and appointed through a voting slate system ("*meccanismo di voto di lista*") pursuant to the provisions set forth in the by-laws of ERG;
- (b) without prejudice to letters (c) and (d) below, in case at the date of submission of the slate of candidates prepared by MidCo the Investor holds a stake in MidCo in excess of the Second Governance Threshold, such slate shall include – in a position so as to guarantee his/her election – 1 candidate director

designated by the Investor and all remaining candidates to be included in the slate will be designated by SQ;

- (c) in case at the date of submission of the slate of candidates prepared by MidCo the Investor holds a stake in MidCo comprised between the First Governance Threshold and 40% of MidCo's share capital, such slate shall include – in a position so as to guarantee their election – 3 candidate directors designated by the Investor, of which (i) at least 1 candidate director would satisfy the independence requirements pursuant to applicable laws and the corporate governance code approved by the corporate governance committee of Borsa Italiana S.p.A., and (ii) at least 2 candidate directors being of the less represented gender pursuant to the law; all remaining candidates to be included in the slate will be designated by SQ;
- (d) in case at the date of submission of the slate of candidates prepared by MidCo the Investor holds a stake in MidCo in excess of 40% of MidCo share capital, such slate shall include – in a position so as to guarantee their election – 4 candidate directors designated by the Investor, of which (i) at least 2 candidate directors would satisfy the independence requirements pursuant to applicable laws and the corporate governance code approved by the corporate governance committee of Borsa Italiana S.p.A., and (ii) at least 3 candidate directors being of the less represented gender pursuant to the law; all remaining candidates to be included in the slate will be designated by SQ.

#### **5.18 Internal Committees of ERG**

SQ shall procure that:

- (a) except in case the Investor holds a stake in MidCo below the Second Governance Threshold, 1 of the non-independent directors of ERG designated by the Investor is appointed as member of the strategic committee of ERG (“**Strategic Committee**”);
- (b) in case the Investor is entitled to designate 2 independent directors of ERG and at least 2 such independent directors have been effectively appointed as directors of ERG, each internal committee established by ERG that is composed exclusively by members of the board of directors shall include among its components 1 of the independent directors designated by the Investor;
- (c) in case the Investor is entitled to designate at least 1 independent director of ERG and at least 1 such independent director has been effectively appointed as director of ERG, the chairman on the nominations and remuneration committee of ERG (“**RemCo**”) shall be appointed among the independent director(s) designated by the Investor.

To the extent the circumstances under letter (b) and (c) above have occurred, the actual appointment of the independent director(s) designated by the Investor as member(s) of the aforesaid committees and/or chairman of the RemCo will occur upon the earliest of (i) the first renewal of the entire composition of the ERG board of directors after the Closing Date and (ii) the voluntary resignation(s) of current member(s) of the relevant committee(s).

#### **5.19 Board of Statutory Auditors of ERG**

Starting from the first renewal of the board of statutory auditors of ERG following the Closing Date, SQ shall procure that MidCo exercises its voting rights in the ERG's shareholders' meeting so that 1 standing auditor and 1 alternate auditor shall be designated by the Investor. To this end, in case of submission by MidCo of a slate of candidates for the office of member of the board of the statutory auditors of ERG, the candidates designated by the Investor as standing auditor and alternate auditor shall be included in such slate as candidate no. 2, each one in the respective section of the slate submitted.

In case of reduction of the Investor's stake below the First Governance Threshold, then the Investor will lose the right to appoint any standing auditor and shall use its best efforts to procure its resignation and replacement with an auditor designated by San Quirico.

Without prejudice to the above, should an auditor designated in accordance with the procedure set forth herein resign or otherwise cease from office, for any reason whatsoever, the Parties shall cooperate to ensure that the composition of the ERG board statutory auditors referred to above is preserved. To the extent applicable in compliance with the gender requirements set forth under the applicable laws and regulations, as well as provided for by the market's best practices and the by-laws of ERG, from time to time, should a standing auditor designated by the Investor cease from its office for any reason and, according to the by-laws of ERG, the alternate auditor designated by SQ is required to take office as effective auditor, then SQ shall use its best endeavors to procure that the alternate auditor designated by SQ does not accept the office as effective auditor or resign from the office of alternate auditor so that the alternate auditor designated by the Investor can take office as effective auditor, it being understood that – in case of resignation of the alternate auditor designated by SQ – the Parties shall procure that a shareholders' meeting of ERG resolves upon the appointment of 2 alternate auditors (1 designated by SQ and 1 designated by the Investor), in compliance with the by-laws of ERG.

### **5.20 ERG Board of Directors' Resolutions**

The Parties agree that SQ shall procure that any resolutions on the following matters shall not be adopted by the board of directors of ERG unless with the presence and the favorable vote of at least 1 non-independent director of ERG designated by the Investor (the “**ERG Board Vetoed Matters**” and, together with the ERG Shareholders' Meeting Vetoed Matters, the “**ERG Vetoed Matters**”):

- (a) acquisition or disposal of shareholdings and/or companies or business concerns (“*aziende*”) or participation to joint ventures or any investment in new greenfield projects in the renewable sector, exceeding the materiality thresholds or meeting the qualitative parameters set forth under the Shareholders' Agreement;
- (b) issue of bonds, assumption of guarantees or new indebtedness (or refinancing of existing indebtedness) which would result in ERG having, on a consolidated basis, a leverage in excess of the higher of (i) the ratio between net leverage and funds from operations (“**Net Leverage/FFO Ratio**”), exceeding 4.2 and (ii) the maximum level of debt for ERG to remain investment grade rated;
- (c) any new capital expenditures not included, or any variation of the capital expenditures in relation to each single investment that determines the relevant investment to exceed more than 30% the value originally approved and included, in the annual plan for capital expenditures related to investment to be performed by ERG in a calendar year, subject to certain carve-outs and in accordance with the calculation formulas better detailed in the contractual documentation and agreed upon by the Parties;
- (d) capital expenditures that are not relating to the core business activities of ERG, in excess of 10,000,000;
- (e) Related Parties transactions – including those carried out by subsidiaries of ERG – exceeding the thresholds for *de minimis* transactions (“*operazioni di importo esiguo*”) as set out in ERG's related-party transactions procedure in force as of the Closing Date, with the exception of transactions to which ERG's related-party transactions procedure shall not apply pursuant to ERG's related-party transactions procedure or the law;
- (f) proposals to the shareholders' meeting of ERG on any ERG Vetoed Matter;
- (g) voting instructions to the representatives of ERG in the shareholders' meeting of (i) ERG Power Generation S.p.A. and (ii) any other direct or indirect subsidiary of ERG meeting the criteria specified in the Shareholders' Agreement (collectively, the “**Material Subsidiaries**”) concerning any of ERG Shareholders' Meeting Vetoed Matters; and
- (h) issuance of guidance towards the Material Subsidiaries' board of directors in respect of ERG Vetoed Matters.

The provisions set forth above shall apply only to the extent the Investor holds a stake in MidCo in excess of or equal to the First Governance Threshold.

### 5.21 Lock-up and restriction concerning Blacklisted Jurisdictions

MidCo By-Laws shall provide for a lock-up undertaking concerning the shares of MidCo for a duration of 5 years from the Closing Date (the “**Lock-up Period**”), without prejudice to any Permitted Transfer (as defined below).

In any case, no Party may transfer any MidCo shares to entities or persons subject to economic or financial sanctions as better identified under the Shareholders’ Agreement (a “**Sanction**”, it being understood that the word “**Sanctioned**” is construed accordingly) and/or located in any countries, from time to time, under sanctions imposed by European Union, USA, UK, United Nations Security Council or Italian Republic (“**Blacklisted Jurisdictions**”).

### 5.22 Permitted Transfers

The provisions of the Shareholders’ Agreement concerning, respectively, the lock-up undertaking during the Lock-up Period, the Right of First Offer (as defined below), the Tag-Along (as defined below) and the Drag-Along (as defined below) shall not apply, at any time, including during the Lock-up Period, to any transfer by any of the Parties of all or part of their respective MidCo shares (held from time to time) to any of their respective Affiliates (the “**Permitted Transfer**”), provided that:

- (a) as a condition precedent (“*condizione sospensiva*”) to the effectiveness of any Permitted Transfer to an Affiliate:
  - (i) the transferee Affiliate shall have undertaken in writing to transfer back all MidCo shares or to transfer such shares to another transferee which is an Affiliate of the transferring Party in the event it ceases to be an Affiliate of such transferring Party for any reason whatsoever; it being understood that, in case the transfer is carried out as a transaction on the share capital of the transferring Party and/or the transferee Affiliate (including without limitation through a contribution in kind, merger, de-merger) and, at any time after the completion of the transfer, the transferee Affiliate ceases to be an Affiliate of the transferring Party, the transferring Party shall cause the transferee to transfer back the MidCo shares or to transfer such shares to another transferee which is an Affiliate of the transferring Party. For the purposes hereof, the transfer agreement shall include a provision under which the transferring Party and/or the transferee Affiliate shall implement the steps necessary to perfect the abovementioned re-transfer or the transfer to another Affiliate; and
  - (ii) the transferring Party shall have procured that the transferee Affiliate adheres to the Shareholders’ Agreement as if it were a Party thereto, by entering into one or more specific deeds of adherence to the same, to be unconditionally and irrevocably bound by all the obligations of and succeed in all rights provided by the Shareholders’ Agreement applicable to the transferring Party, it being agreed that the transferring Party shall remain jointly and severally liable with the transferee Affiliate for the proper and timely performance of all its obligations arising from the Shareholders’ Agreement and, therefore, such transferee Affiliate and such transferring Party shall be deemed as a single Party pursuant to the Shareholders’ Agreement (provided that such joint and several liability will not operate in the event of a transfer by the Investor of all or part of its MidCo shares in favor of another fund managed and/or advised by the IFM Fund, any subsidiaries of such other fund and/or Affiliates thereof);
- (b) such Permitted Transfer shall not release the transferring Party from any liability or obligation it may have under the Shareholders’ Agreement which has arisen or been incurred prior to the date of the Permitted Transfer, or which relates to any MidCo shares that the transferring Party continues to own after the date of the Permitted Transfer; and
- (c) the Permitted Transfer is consummated by written agreement to be notified without delay to the other Party.

### 5.23 Put Option and Follow on Investments

SQ will have the option pursuant to Article 1331 of the Civil Code to sell to the Investor ParentCo, in one or two tranches, part of its stake in MidCo (the “**Put Option**”) at a price to be determined in accordance with the criteria set forth in the Shareholders’ Agreement, it being agreed that Investor ParentCo may elect Investor to purchase the MidCo shares that are subject to the Put Option (the “**Put Option Stake**”). The Put Option can be exercised by SQ (i) once on any day from the first to the last calendar day of the 18<sup>th</sup> month from the Closing Date and/or (ii) once on any day from the first to the last calendar day of 36<sup>th</sup> month from the Closing Date.

In addition, or in alternative to the exercise of the Put Option, SQ shall have the right to cause the Investor ParentCo (that shall be obliged) to underwrite one or more capital increases of MidCo reserved to the Investor ParentCo (each, a “**Follow on Investment**”) – according to the terms and conditions set forth in the Shareholders’ Agreement – whose proceeds may be used for the following purposes: (i) purchasing ERG Shares on the market or over the counter; or (ii) subscribing future rights issues (“*umenti di capitale in opzione*”) resolved by ERG whose proceeds are, in turn, intended to be deployed to fund (x) transactions that fall within the ERG Board Reserved Matters or (y) transactions that do not fall within the ERG Board Reserved Matters, but – in both cases under (x) and (y) – have been approved by the ERG’s competent body with the favorable vote of the Investor and/or of the non-independent ERG director designated by the Investor.

The MidCo shares issued in favour of Investor ParentCo following the subscription of a Follow On Investment shall be subject to the governance and transfer provisions under the Shareholders’ Agreement, and the Investor ParentCo and Investor shall be deemed as a single Party pursuant to the Shareholders’ Agreement. Investor ParentCo further undertakes to transfer or contribute to the Investor such MidCo shares within 2 business days from the issuance thereof.

The aggregate disbursement of the Investor or the Investor ParentCo as effect of the exercise(s) of the Put Option and/or the Follow on Investment, as the case may be, shall in any case not exceed Euro 500,000,000 (the “**Maximum Amount**”).

Under no circumstances any exercise(s) of the Put Option and/or of the Follow on Investment by SQ shall cause Investor to hold (together with its Affiliates, including Investor ParentCo) a stake in MidCo in excess of 49% of the MidCo share capital (or voting rights, if higher).

#### **5.24 Call Option**

The Investor ParentCo will have the option pursuant to Article 1331 of the Civil Code to purchase from SQ, in one tranche, part of its stake in MidCo (the “**Call Option**”) at a price to be determined in accordance with certain criteria set forth in the Shareholders’ Agreement, it being agreed that Investor ParentCo may elect Investor to purchase the MidCo shares that are subject to the Call Option (in such latter case, for the avoidance of doubt, any reference made to Investor ParentCo herein shall be read, where appropriate, *mutatis mutandis*, as a reference to Investor). The Call Option can be exercised by the Investor ParentCo on any day from the first to the last calendar day of the 40<sup>th</sup> month from the Closing Date.

The Call Option cannot be exercised in case on the 34<sup>th</sup> month following the Closing Date the aggregate disbursement of the Investor or the Investor ParentCo as effect of the exercise(s) of the Put Option and/or the Follow on Investment (as defined below), as the case may be, exceeded 75% of the Maximum Amount.

The provisions regarding the Call Option shall not be applicable in the event that (i) notwithstanding the lock-up undertaking provided under the Shareholders’ Agreement, the Investor requests the consent of SQ to carry out a transfer of MidCo shares which does not qualify as a Permitted Transfer pursuant to the Shareholders’ Agreement, and (ii) SQ having consented to such transfer, such transfer is duly completed by the Investor and has the effect that the Investor holds a stake in MidCo below the Second Governance Threshold.

Under no circumstances any exercise of the Call Option shall cause Investor to hold (together with its Affiliates, including Investor ParentCo) a stake in MidCo in excess of 49% of the MidCo share capital (or voting rights, if higher).

#### **5.25 Right of First Offer**

Following the expiration of the Lock-up Period, and without prejudice to the provisions of the Shareholders' Agreement regarding Permitted Transfers, Put Option, Call Option and Follow on Investment, any transfer – in whole or in part – of MidCo shares by a Party (“**Selling Party**”) shall be subject to a right of first offer (the “**Right of First Offer**”) in favor of the other Party (“**Non-Selling Party**”) pursuant to the procedure set forth under the Shareholders' Agreement.

In any event, it is agreed and understood that the Investor will be entitled to transfer MidCo shares exclusively to a person other than (i) Sanctioned entities or entities belonging to a Blacklisted Jurisdiction; and (ii) any “Competitor”, as defined under the Shareholders' Agreement; and (iii) industrial entities which generate more than 20% of their revenues in the oil&gas and mining sectors, it being understood that, for the sake of clarity, limb (iii) shall not include any investment fund or institutional investors (including infrastructure funds, pension funds, sovereign wealth funds, insurance companies, funds of funds, endowments and foundations, asset managers) even in case in which such fund or institutional investors hold, directly or indirectly, interests or other financial instruments (including participation of investment funds) in one or more company in the oil&gas and mining sectors.

Before agreeing to transfer, in whole or in part, its MidCo shares (the “**Shares for Sale**”) to any person other than a transferee under a Permitted Transfer, the Selling Party shall give notice in writing to the Non-Selling Party specifying (i) its intention to transfer, (ii) the number of Shares for Sale and (iii) an invitation to the Non-Selling Party to formalize a binding purchase offer of the Shares for Sale under the terms and conditions set out below (the “**Transfer Notice**”).

The Non-Selling Party shall be entitled to submit to the Selling Party an offer (the “**First Offer**”) for the purchase of all, and not less than all, the Shares for Sale by sending a written notice (the “**First Offer Notice**”) within 37 business days, under penalty of forfeiture, from the receipt of the Transfer Notice (the “**First Offer Exercise Period**”).

If, within the First Offer Exercise Period, (i) no First Offer is submitted by the Non-Selling Party or (ii) the Non-Selling Party submits a First Offer, but the Selling Party does not accept expressly and in writing the First Offer within the First Offer Acceptance Period, then, in both circumstances under limbs (i) and (ii) above, the Selling Party shall – subject to the below – be free to Transfer the Shares for Sale (and exclusively the Shares for Sale) to any person (the “**Prospective Transferee**”), provided however that (a) the MidCo price per share offered by the Prospective Transferee is higher than the MidCo price per share offered by the Non-Selling Party in its First Offer and (b) the Prospective Transferee adheres to the Shareholders' Agreement as if it were a Party hereto by entering into one or more specific deeds of adherence to the Shareholders' Agreement, thus becoming unconditionally and irrevocably bound by all the obligations of and succeed in all rights provided thereby, it being agreed that, should the Shares of Sale represent less than all MidCo shares held by the Selling Party, such Prospective Transferee and such Selling Party shall be deemed as a single Party pursuant to the Shareholders' Agreement.

In case the Selling Party become entitled to sell the Shares for Sale to the Prospective Transferee pursuant to the provisions above, thus shall give the Non-Selling Party appropriate notice with regards to such transfer (“**Third Party Transfer Notice**”). In this case, the provisions regarding the Tag-Along (as defined below) shall apply in respect of the Investor's CoC Tag-Along Right or the Proportional Tag-Along Right (both as defined below), as the case may be, except in case of delivery to the Investor of a Third Party Transfer Notice whereby is exercised by SQ its Drag-Along Right (as defined below), in which event the relevant provisions shall instead apply.

It remains understood that all the above provisions shall be applicable to the case where SQ is the Selling Party only to the extent the Investor holds a stake in MidCo exceeding the Second Governance Threshold.

### **5.26 Tag-Along**

In the event of a prospective transfer of the Shares for Sale to a Prospective Transferee, should the Selling Party be SQ, following the delivery of the Third Party Transfer Notice and subject to (i) SQ not having already



exercised its Drag-Along Right (as defined below) and (ii) the Investor not having exercised its Right of First Offer, the Investor shall have the right to transfer to the Prospective Transferee, at the price per MidCo share offered by the Prospective Transferee for the acquisition of the Shares for Sale (the “**Third Party Price**”):

- (a) all (and not less than all) MidCo shares held by the Investor, if the proposed transfer of the Shares for Sale to the Prospective Transferee by SQ would result in SQ losing the control over MidCo (the “**CoC Tag-Along Right**”); or
- (b) a percentage of all MidCo shares held by the Investor corresponding to the percentage represented by the Shares for Sale in respect of all MidCo shares held by SQ, if the proposed transfer of the Shares for Sale to the Prospective Transferee by SQ would not result in SQ losing the control over MidCo (the “**Proportional Tag-Along Right**”)

(the MidCo shares of the Investor referred to in limbs (a) or (b) above are defined, as the case may be, as the “**Tag-Along Shares**”),

on the same terms and conditions indicated in the Third Party Transfer Notice delivered by SQ.

The CoC Tag-Along Right or the Proportional Tag-Along Right, as the case may be, shall be exercised by the Investor within 20 business days (under penalty of forfeiture) from receipt of the Third Party Transfer Notice, by sending a written communication to SQ (the “**Tag-Along Notice**”) indicating the Investor’s undertaking to Transfer to the Prospective Transferee its Tag-Along Shares at the Third Party Price and on the same terms and conditions indicated in the Third Party Transfer Notice (including, *mutatis mutandis* and proportionally, any price adjustments and any representation and warranty and indemnification obligations).

In case of exercise by the Investor of the CoC Tag-Along Right or the Proportional Tag-Along Right, as the case may be, SQ shall procure that the Prospective Transferee acquires the Tag-Along Shares of the Investor:

1. simultaneously with, and at the same place as, the closing of the transfer of the Shares for Sale by SQ to the Prospective Transferee; and
2. at the Third Party Price and on the same terms and conditions indicated in the Third Party Transfer Notice (including, *mutatis mutandis* and proportionally, any price adjustments and any representations and warranties and indemnification obligations).

In the event the Prospective Transferee refuses to acquire the Tag-Along Shares, then SQ shall promptly communicate such event to the Investor and shall have the right, at its sole discretion and within 20 business days from such communication, either to: (i) reduce the number of the Shares for Sale to allow the sale to the Prospective Transferee of all (and not less than all) the Tag-Along Shares (but for the avoidance of doubts, as far as the Proportional Tag-Along Right is concerned, such reduction shall operate so that, ultimately, the percentage of all MidCo shares held by the Investor to be sold to the Prospective Transferee corresponds to the percentage of all MidCo shares held by SQ actually sold to such Prospective Transferee); or (ii) purchase, at the Third Party Price per MidCo share, all (and not less than all) the Tag-Along Shares which are not purchased by the Prospective Transferee; or (iii) waive in writing the envisaged transfer of the Shares for Sale to the Prospective Transferee.

It remains understood that all the provisions above shall be applicable irrespective of the threshold of stake in MidCo held by the Investor and, therefore, even in case the Investor holds a stake in MidCo below the Second Governance Threshold.

### **5.27 Drag-Along**

Starting from the 7<sup>th</sup> anniversary of the Closing Date, in the event of a prospective transfer of the Shares for Sale to a Prospective Transferee pursuant to the above provisions and notwithstanding the Tag-Along, upon delivery of the Third Party Transfer Notice, should: (i) the Selling Party be SQ; and (ii) the Shares for Sale represent all (and not less than all) MidCo shares held by SQ, SQ shall be entitled to require the Investor to transfer, and the Investor shall be irrevocably and unconditionally obligated to transfer, all (and not less than

all) MidCo shares held by the Investor (the “**Drag-Along Shares**”), in accordance with the provisions set out under the Shareholders’ Agreement (the “**Drag-Along Right**”) and, *inter alia*, at a price which shall be the higher of (a) the Third Party Price and (b) the price that would allow the Investor to achieve a minimum return on the investment to be calculated on the basis of a certain return rate on the investment itself.

The Drag-Along Right shall be exercised by SQ (under penalty of forfeiture) with a communication to such effect, which will be contained in the Third Party Transfer Notice.

In case of exercise by SQ of the Drag-Along Right, SQ shall procure that the Prospective Transferee acquires the Drag-Along Shares of the Investor simultaneously with, and at the same place as, the closing of the transfer of the Shares for Sale by SQ to such Prospective Transferee, it being however understood that the Investor shall be required to make fundamental representations and warranties on title and capacity only.

For the sake of clarity, in case SQ does not exercise the Drag-Along Right, the Investor shall be then entitled to possibly exercise the CoC Tag-Along Right or the Proportional Tag-Along Right (as the case may be).

### **5.28 Investor’s Right of First Offer on ERG shares**

Any transfer of ERG Shares (the “**ERG Shares for Sale**”) by MidCo shall be subject to a right of first offer in favor of the Investor (the “**Investor’s Right of First Offer**”) pursuant to the provisions below and, therefore, no transfer of ERG Shares shall be consummated unless and until the procedure set out under the Shareholders’ Agreement is carried out.

Before the transfer of the ERG Shares for Sale, MidCo shall give notice in writing to the Investor specifying (i) its intention to proceed with such a transfer, (ii) the number of ERG Shares for Sale and (iii) an invitation to the Investor to formalize a binding purchase offer of the ERG Shares for Sale under the terms and conditions set out below (the “**ERG Transfer Notice**”).

The Investor shall be entitled to submit to MidCo an offer (the “**Investor’s First Offer**”) for the purchase of all, and not less than all, the ERG Shares for Sale by sending to MidCo a written notice (the “**Investor’s First Offer Notice**”) within 37 business days, under penalty of forfeiture, from the receipt of the ERG Transfer Notice (the “**Investor’s First Offer Exercise Period**”).

If, within the Investor’s First Offer Exercise Period, (i) no Investor’s First Offer is submitted by the Investor or (ii) the Investor submits an Investor’s First Offer, but MidCo does not accept expressly and in writing the Investor’s First Offer within the period specified under the Shareholders’ Agreement (the “**First Offer Acceptance Period**”), in both circumstances under limbs (i) and (ii) above, MidCo shall – subject to the below – be free to transfer the ERG Shares for Sale (and exclusively the ERG Shares for Sale) to any person (the “**ERG Shares’ Prospective Transferee**”) provided however that the price per ERG share offered by such person for the purchase of the ERG Shares for Sale (the “**ERG Shares’ Third Party Price**”) is higher than the price per ERG share offered by the Investor for the purchase of all, and not less than all, the ERG Shares for Sale (the “**Investor’s First Offer Price**”).

In the events set forth above, MidCo shall be entitled to transfer the ERG Shares for Sale to any person (including on Euronext Milan or through an over the counter transaction) provided that (i) the price of the sale of such ERG Shares for Sale to a person other than the Investor can be completed only for a price per share higher than the Investor’s First Offer Price (ii) the relevant transfer is completed within 30 business days from the end of the First Offer Acceptance Period and (iii) MidCo promptly provides evidence of the circumstances under limbs (i) and (ii) above to the Investor.

It remains understood that all the provisions of the Shareholders’ Agreement regarding the Investor’s Right of First Offer on ERG shares shall be applicable only to the extent the Investor holds a stake in MidCo exceeding the Second Governance Threshold.

### **5.29 ERG Disposable Stake**

In the event SQ intends to sell to MidCo part of its shares in MidCo as a result of the completion of the disposal

of the ERG Disposable Stake: (i) SQ shall send a notice to Investor and MidCo to communicate its intention to procure the sale of the ERG Disposable Stake by MidCo (the “**Disposal Notice**”); (ii) within 10 business days from the receipt of such notice, Investor has the right, to submit to SQ a firm, unconditional offer (the “**ERG Disposable Stake Offer**”) indicating the price per ERG Share at which the Investor would acquire the ERG Disposable Stake; (iii) SQ has the right, within 15 business days from receipt of the ERG Disposable Stake Offer:

- (a) to accept the ERG Disposable Stake Offer, in which case Investor will acquire a number of MidCo Shares to be determined based on the equivalent Euro consideration that the Investor would be ready to pay for the ERG Disposable Stake and the MidCo FMV (as defined under item (iii) below); or
- (b) to decline the ERG Disposable Stake Offer, in which case the procedure set out in the following items (i) to (iii) shall apply, provided that any such sale of ERG Shares is completed within 15 business days from the decision of MidCo to decline the ERG Disposable Stake Offer;
  - (i) the MidCo Board of Directors shall take all necessary actions to execute the sale of the ERG Disposable Stake indicated in the Disposal Notice;
  - (ii) no later than 15 business days after the completion of the sale of the ERG Disposable Stake, the MidCo Board of Directors shall take all necessary actions to convene and hold an ordinary and extraordinary shareholders’ meeting of MidCo to resolve upon the authorization to the purchase of MidCo’s treasury shares from SQ (up to an amount and at a price calculated pursuant to item (iii) below) and the authorization to the subsequent cancellation of such MidCo treasury shares, as well as the consequent amendment of the MidCo By-Laws, that shall be effective upon completion of the repurchase of such MidCo treasury shares;
  - (iii) the proceeds that have arisen from the completion of the sale of the ERG Disposable Stake (net of the taxes on capital gain and other taxes and costs to be paid by MidCo in relation to the transfer of ERG Shares and the relevant MidCo treasury shares) shall then be used by MidCo to carry out the repurchase of an amount of the relevant MidCo treasury shares equal to the net proceeds of the sale of ERG Disposable Stake divided by the MidCo FMV per Share (where “**MidCo FMV per Share**” means the fair market value of the equity of MidCo, divided per the total number of outstanding MidCo shares at that time, as yearly determined by MidCo board of directors – based on an independent appraiser’s evaluation jointly selected by Investor and SQ – with the favorable vote of at least 1 Investor MidCo Director, it being agreed between the Parties that in case the Investor MidCo Director does not vote in favor thereof, the MidCo FMV per Share shall be determined pursuant to procedure set forth under Article 13 of the Shareholders’ Agreement).

### **5.30 Transfers of Equity Interests in SQ**

The Parties expressly acknowledge and agree that, as a general principle and notwithstanding anything to the contrary as provided under the Shareholders’ Agreement, any of the SQ Shareholders shall be, at any time, free to transfer, directly or indirectly, in whole or in part, their stakes in the share capital of SQ, provided that:

- (c) the relevant transfer(s) are carried out in favor of:
  - 1) one or more SQ Shareholders; and/or
  - 2) other persons and/or entities (with the exclusion of Sanctioned entities and/or entities sitting in Blacklisted Jurisdictions), to the extent that such persons and/or entities shall not be vested, at any time, with any governance or other administrative rights concerning MidCo and/or ERG; and, in any event
- (d) the precise identity of such persons and/or entities shall be communicated in writing to the Investor at

least 30 business days before execution of any of such transfer(s),

It is further agreed that, where any of such transfer(s) entails a change of control of SQ, the provisions described below shall apply.

### **5.31 Change of control of SQ with MTO**

In case, at any time, following any transfers of stakes in the share capital of SQ, a mandatory takeover offer over ERG Shares is launched pursuant to the applicable laws (and, in particular, Article 45 of the Issuers' Regulation) as a consequence of a change of control of SQ (the "**MTO**"):

- (a) if MidCo Board of Directors resolves to tender all the MidCo ERG Stake to such MTO and the relevant resolution is adopted with the attendance and the favorable vote of at least 1 Investor MidCo Director, then the Parties shall cause MidCo to be put into voluntary liquidation upon successful completion of the MTO, bearing pro quota any winding-up costs connected therewith, and the proceeds of the sale of the MidCo ERG Stake to the MTO shall be distributed to the Parties in proportion to their holding stakes in MidCo;
- (b) if MidCo Board of Directors (i) does not resolve upon the decision to adhere to the MTO within 5 business days from the final approval of the offer document by the competent stock market authority, or (ii) is convened and resolves not to adhere to such MTO but at least 1 Investor MidCo Director casts his/her contrary vote in respect of such resolution, then the Investor will have the option pursuant to Article 1331 of the Civil Code to sell to SQ, in a single tranche, all (and not less than all) the MidCo shares held by it (the "**MidCo Put Option Stake**"), at a price per MidCo share computed in accordance with the formula set forth under the Shareholders' Agreement.

### **5.32 Change of control of SQ without MTO**

In case, at any time and for any reasons, the MidCo shares held by SQ are no longer the main asset (as per Article 45, Paragraph 4, of the Issuers' Regulation) owned by SQ itself and SQ Shareholders intend to pursue any transactions entailing a change of control of SQ (the "**Relevant Transaction**"), then:

- (a) SQ Shareholders shall execute a partial proportional demerger of SQ before completing the Relevant Transaction as effect of which the entirety of the shares of MidCo held by SQ shall be transferred to a legal entity (other than SQ), entirely owned by the shareholders of SQ (directly or through a fiduciary company), that will not be involved in the Relevant Transaction; in such a case, SQ shall deliver a written notice to the Investor, within 15 business days in advance of the resolution upon the partial proportional demerger, providing all the relevant details of the Relevant Transaction as well as of the terms and conditions of the partial proportional demerger (including, among others, the timing of such transaction) (the "**Demerger Notice**"); or, alternatively, at SQ Shareholders' sole discretion
- (b) if no demerger as per letter (a) above is executed or if a Demerger Notice is duly delivered by SQ to Investor but the envisaged partial proportional demerger is not executed by SQ as provided in the Demerger Notice, the Investor shall have the option pursuant to Article 1331 of the Civil Code to sell to SQ, in a single tranche, the MidCo Put Option Stake, at a price per MidCo share to be calculated in accordance with the criteria set forth under the Shareholders' Agreement (the "**Relevant Transaction Put Option**").

The Relevant Transaction Put Option can be exercised by the Investor by serving to SQ a written notice within 12 business days: (i) from the date of delivery of the relevant written communication by which the SQ Shareholders notify the Investor that no demerger as per letter (a) above will be executed, or (ii) in case a Demerger Notice is duly delivered by SQ to Investor but the envisaged partial proportional demerger is not executed by SQ as provided in the Demerger Notice, from the date on which the resolution on such demerger should have taken place in accordance with the Demerger Notice, as better described under the Shareholders' Agreement.

In case of exercise of the Relevant Transaction Put Option, as a consideration for the Transfer of the MidCo

Put Option Stake to SQ, SQ will pay to Investor a price per MidCo share which shall be calculated in accordance with the provisions of the Shareholders' Agreement.

### 5.33 Agreed Dividend Policy

For the entire duration of the Shareholders' Agreement, MidCo and ERG shall comply with certain dividend policies (the "**Agreed Dividend Policy**"), as per what provided for under the respective business plans and in accordance with the principles detailed in the Shareholders' Agreement.

### 5.34 No Other Agreements

Each Party represents to the other Party that, except for the Shareholders' Agreement and the Investment Agreement, it has not entered into any shareholders' agreement with any third party person concerning the governance of MidCo and/or ERG or that has the effect of establishing for the benefit of such third party person rights as shareholder of MidCo and indirect shareholders of ERG (any such agreement a "**Side Agreement**"); and (ii) any Party undertakes and covenants not to enter into any Side Agreement.

## 6. Duration of the Shareholders' Provisions

The Investment Agreement is effective from the date of its signing and does not provide for a term of duration, it being understood that (i) the Shareholders' Provision of the Investment Agreement remain nonetheless subject to the provisions of Article 123 CFA, and (ii) the completion of the Transaction is subject to the fulfilment of the Conditions Precedent, so that if the Conditions Precedent are not fulfilled prior to the Long Stop Date, the Investment Agreement will be automatically terminated and the Parties will be released of all obligations provided for hereunder.

In addition, each of HoldCo shall have the right to withdraw from the Investment Agreement if, at any time before the Closing Date, a Withdrawal Event occurs. To such extent, "**Withdrawal Event**" means: (a) Russia carrying out an armed attack lasting more than 3 (three) consecutive days against one or more parties to the North Atlantic Treaty, thus triggering the actual application of Article 5 of such Treaty through the use of armed force; and/or (b) the Target's board of directors resolving upon – or submitting a proposal to the shareholders' meeting to resolve upon (as the case may be) – : (i) a change in the corporate purpose ("*oggetto sociale*") of the Target; (ii) the merger and demerger, liquidation, bankruptcy or similar proceedings of the Target; (iii) any variation in the share capital of the Target (or the rights attached to Target shares) and/or issue of Target shares or of securities convertible in Target shares; (iv) disposing of companies or business concerns ("*aziende*") relevant under the Shareholders' Agreement; (v) acquiring companies or business concerns ("*aziende*"), provided that such acquisitions (I) would be relevant under the Shareholders' Agreement and (II) increased – on a consolidated basis – the Target's net financial indebtedness by more than Euro 500,000,000; or (vi) acquisition of assets, or assumption of liabilities for projects (whether greenfield or brownfield), not related to the core business activities of ERG, in excess of Euro 10 million.

The Shareholders' Agreement becomes effective on the Closing Date and will remain in force until the date falling on the 3<sup>rd</sup> anniversary of the Closing Date.

The Shareholders' Agreement shall be automatically renewed for further additional periods of 3 years unless terminated by any of the Parties by means of a written notice to be sent to the other Parties at least six months before the expiry of each term of the Shareholders' Agreement.

Without prejudice to the foregoing, the Parties agree that, unless otherwise specified herein, should one of the Parties cease to be a shareholder of MidCo, the Shareholders' Agreement shall cease to be effective *vis-à-vis* such ceasing Party.

## 7. Filing of Shareholders' Provisions and publication of Essential Information

The agreements having a shareholders' nature set out in the Shareholders' Provisions were filed, in a single document (*i.e.*, the Investment Agreement, with the Shareholders' Agreement attached thereto), with the Genova Companies' Register on June 20, 2022.

This Essential Information is published, as updated, pursuant to Articles 130 and 131 of the Issuers' Regulations, on ERG's website ([www.erg.eu](http://www.erg.eu)).

June 20, 2022