



UGS KATHARINA  
Erdgasspeicher Peissen GmbH

Annex 1 to the Storage Service Agreement

## **General Terms and Conditions of Access**

Katharina Natural Gas Storage Facility

(hereinafter also referred to as the "Storage Access Conditions" or "Annex 1 to the Storage Service Agreement")

**Erdgasspeicher Peissen GmbH**

(hereinafter referred to as the "Storage Service Provider")

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Date: 01/04/2016

Version: 4.0

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## Contents

1. DEFINITIONS.....	4
2. SCOPE: STORAGE SERVICE AGREEMENT AND STORAGE SERVICES.....	12
3. MODIFICATION OF THE STORAGE ACCESS CONDITIONS.....	13
4. REGISTRATION, STORAGE SERVICES REQUESTS, USE OF THE STORAGE PORTAL.....	15
5. PROCESSING OF THE STORAGE SERVICES REQUESTS BY THE STORAGE SERVICE PROVIDER.....	18
6. MINIMUM REQUIREMENTS TO BE FULFILLED BY THE STORAGE CUSTOMER .....	19
7. CONCLUSION OF A STORAGE SERVICE AGREEMENT.....	20
8. SUBJECT OF THE STORAGE SERVICE AGREEMENT .....	22
9. EXCEEDING STORAGE CAPACITIES .....	23
10. SECONDARY TRADING .....	24
11. TRANSFER OF NATURAL GAS IN THE STORAGE FACILITY .....	25
12. DEPRIVATION OF THE STORAGE CAPACITIES (USE-IT-OR-LOSE-IT PRINCIPLE).....	25
13. STORAGE CUSTOMER'S STORAGE ACCOUNT .....	27
14. STORAGE CUSTOMER'S STORAGE LEVEL AT THE END OF THE STORAGE PERIOD.....	27
15. OPERATIONAL PROCESSING OF THE STORAGE SERVICE AGREEMENT .....	28
16. INTERRUPTION OF SERVICES AND TERMINATION.....	28
17. DELIVERY POINT .....	31
18. MEASUREMENT AT THE DELIVERY POINT.....	31
19. PIPELINE .....	32
20. GAS QUALITY SPECIFICATION.....	33
21. GAS PRESSURE.....	34
22. TECHNICAL REQUIREMENTS.....	34
23. MAINTENANCE AND REPAIR.....	35
24. INVOICING AND PAYMENT.....	38
25. TAXES AND LEVIES.....	39
26. SECURITIES .....	40
27. INSURANCE COVERAGE.....	41
28. FORCE MAJEURE .....	42
29. LIABILITY .....	43
30. DATA DISCLOSURE AND PROCESSING .....	45
31. INFORMATION DUTIES.....	46
32. CONFIDENTIALITY .....	46



UGS KATHARINA  
Erdgasspeicher Peissen GmbH

<b>33. ASSIGNMENT OF RIGHTS AND OBLIGATIONS.....</b>	<b>48</b>
<b>34. SEVERABILITY AND CHANGED CIRCUMSTANCES.....</b>	<b>48</b>
<b>35. ARBITRATION AND APPLICABLE LAW.....</b>	<b>49</b>
<b>36. MISCELLANEOUS.....</b>	<b>50</b>



UGS KATHARINA  
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## Preamble

EPG shall construct approximately until the year 2024 and operate pursuant to the progress of the construction work an underground Gas Storage Facility named Katharina next to Peissen in the German Federal State of SaxonyAnhalt on the territory of Germany (hereinafter referred to as the “**Storage Facility**”).

Subject to and to extent of the completion and operability of the Storage Facility the Storage Service Provider hereby offers to third parties access to Storage Capacities including the corresponding Storage Services available for marketing purposes in the Storage Facility.

The Storage Service Provider offers to the Storage Customer Injection Capacities, Withdrawal Capacities and Working Gas Volume pursuant to the provisions of the Storage Service Agreement entered into by and between the Storage Service Provider and the Storage Customer.

Any signed individual Storage Service Agreement shall be based on the provisions of the following General Terms and Conditions of Access to the Katharina Natural Gas Storage Facility (hereinafter referred to as the “**Storage Access Conditions**”) in its respective valid version.

### 1. Definitions.

The following definitions and other definitions herein shall apply to these Storage Access Conditions, the Storage Service Agreement, the Operating Agreement (Annex 2 of the Storage Service Agreement) and the Storage Specification (Annex 3 of the Storage Service Agreement) of the Storage Facility.

Terms used in the singular also include the plural and vice versa, unless expressly agreed otherwise, or if the context suggests the opposite. Specific terms contained in the wording of the Storage Access Conditions are also defined by way of legal definition.

All definitions related to quantities and units correspond to the definitions of the international standard ISO 1000 (SI Units and Recommendations for Use of their Multiples and certain Other Units) dated 11 January 1992 in the respective valid version.



**"Allocation"** means the apportioning of Natural Gas quantities among the individual Storage Service Agreements based on joint measurement at the metering station of the Storage Facility.

**"Allocation Procedure"** shall be the procedure applied by the Storage Service Provider for Allocation in accordance with Article 7 of the Operating Agreement.

**"Bundled Product"** means the Storage Capacities offered to the Storage Customer at the Storage Facility for specific Storage Periods in a predefined ratio as defined in the Storage Specification.

**"Calendar Day"** means the period beginning at 0:00 hours and ending at 24:00 hours of each calendar Day in accordance with the official time in Germany.

**"Calendar Month"** means the period beginning at 0:00 hours (CET/CEST) of the correspondent Calendar Day and ending at 24:00 hours (CET/CEST) of the last Calendar Day of such month.

**"Calendar Year"** means the period beginning on the 1<sup>st</sup> of January at 0:00 hours (CET/CEST) and ending at 24:00 hours (CET/CEST) on the 31<sup>st</sup> of December of the same year.

**"CET/CEST"** shall be the acronym for Central European (Summer) Time. The applicability of both CET and CEST is determined in accordance with the official time in Germany.

**"Communication Test"** means a test to be held in accordance with Article 3 of the Operating Agreement by which the Storage Customer shall furnish proof that it is capable of fulfilling the communication requirements for the operational execution of the Storage Service Agreement.

**"Contracting Party"** shall either be the Storage Customer or the Storage Service Provider (or both).

**"Cubic meter"** or **"m<sup>3</sup>"** means the amount of one (1) cubic meter of Natural Gas that at zero degrees (0°C) Celsius and at a Pressure of 1.01325 bar consumes a volume of one cubic meter. All volumes of Natural Gas in the Storage Service Agreement including the corresponding documents always refer to this definition.

**"Day"** means the period beginning at 00:00 hours and ending at 24:00 of each Calendar Day in accordance with the official time in Germany.



UGS KATHARINA  
Erdgasspeicher Peissen GmbH

**"Delivery Point"** means the network interconnection point/border crossing point UGS Bernburg/Katharina for the injection/withdrawal of Natural Gas into the Storage Facility as clarified in the Storage Specification.

**"Deprivation"** shall mean the deprivation of Storage Capacities in accordance with Article 12 hereof in order to prevent the inappropriate hoarding of Storage Capacities (Use-it-or-lose-it Principle).

**"EURIBOR"** means the Euro Interbank Offered Rate as published by the European Central Bank.

**"Exceeding Storage Account"** shall occur in the event that the Storage Customer's Storage Level is either below zero (0) or above the contracted Working Gas Volume.

**"Exceeding Storage Capacities"** mean exceeding the contracted Storage Capacities pursuant to Article 9 hereof.

**"First Utilisation Day"** shall be the first Storage Day on which the Storage Customer may claim its respective Storage Capacities under its Storage Service Agreement as further clarified in the Storage Service Agreement subject to and to the extent of the completion and operability of the Storage Facility.

**"Fee for Exceeding Storage Capacities"** shall mean the fee that will be charged by the Storage Service Provider for exceeding the contracted Storage Capacities as further determined in the Storage Specification in case the contracted Storage Capacities have been exceeded.

**"Fixed Storage Fee"** shall mean a firm fee (subject to potential adjustments) per Storage Year for contracting Storage Services pursuant to the provisions of the Storage Specification which is based on the provided Working Gas Volume in any respective Storage Year not depending on the actual use of the Storage Services by the Storage Customer ("Store-or-pay"). The Fixed Storage Fee shall be exclusive VAT, if any.

**"Gas"** see "Natural Gas".

**"Gas Pressure"** means the overpressure of the Natural Gas above the atmospheric pressure in bar.



**"Hour"** means the time beginning at a full hour and ending at the beginning of the following full hour.

**"Identity"** of the Natural Gas shall exist where the Natural Gas quantities injected and withdrawn are identical. The Identity of the Natural Gas stored at the Storage Facility cannot be ensured as the Natural Gas quantities stored in Storage Facility are owned by different Storage Customers and thus get mixed.

**"Injection Capacity"** means the hourly maximum injection quantity of Natural Gas in cubic meters which is held by the Storage Service Provider on demand for the Storage Customer as contracted under the Storage Service Agreement for the injection of Injection Gas at the Injection Point of the Storage Facility in compliance with the corresponding Injection Parameters as further determined in the Storage Specification.

**"Injection Gas"** means the quantity of Natural Gas expressed in m<sup>3</sup> which shall be delivered by the Storage Customer to the Storage Service Provider for injection at the Injection Point and shall be accepted by the Storage Service Provider for injection into the Storage Facility.

**"Injection Parameters"** determine the maximum Injection Capacity in relation to the Storage Customer's Storage Level of the Working Gas Volume of the Storage Customer as further determined in the Storage Specification.

**"Injection Point"** means the Delivery Point at which the Storage Service Provider accepts the Injection Gas from the Storage Customer.

**"Interruptible Storage Services"** shall mean the Storage Services that a Storage Customer may book that may be interrupted by the Storage Provider in accordance with the Storage Specification.

**"Katharina Natural Gas Storage Facility"** or **"Storage Facility"** comprises surface and subsurface storage facilities near Peissen, Germany, including a pipeline which connects the Storage Facility to the pipeline system of Neighboring Natural Gas Network as further described in the Preamble.

**"Last Utilisation Day"** means the Storage Day until the Storage Customer shall be entitled to utilize the contracted Storage Capacities under its Storage Service Agreement.



**“Long-Term Agreements”** means Storage Service Agreements with a term of seventeen (17) years.

**“Medium-Term Agreements”** means Storage Service Agreements with a full year term of six (6) to sixteen (16) years.

**"Month"** means the time beginning at 06:00 hours (CET/CEST) of the first Day of each Calendar Month and ending at 06:00 hours (CET/CEST) on the first Day of the following Calendar Month.

**"Natural Gas"** or **"Gas"** is a mixture of gaseous hydrocarbons, mainly methane, and other components in a natural state in the ground or which has been recovered together with liquid hydrocarbons.

**"Neighboring Network Operator"** shall be the operator of the Neighboring Natural Gas Network.

**"Neighboring Natural Gas Network"** shall be the Natural Gas network connected to the Storage Facility.

**"Nomination"** shall be the nomination by the Storage Customer of the quantities of Natural Gas to be injected or withdrawn within certain periods in compliance with the contractually agreed nomination period.

**"Nomination Procedure"** shall be the procedure by which the Storage Customer nominates quantities of Natural Gas to be injected or withdrawn within certain periods. Said procedure has been described in the Operating Agreement (Annex 2 of the Storage Service Agreement).

**"Notice of Deprivation"** shall be the written notice by the Storage Service Provider informing the Storage Customer of the Deprivation of Storage Capacities as described in Article 12.3 hereunder.

**"Notice of Rejection"** shall be the written notice sent by the Storage Service Provider to the Storage Customer informing it that a Storage Service Request has been rejected.

**"Off-Spec Natural Gas"** shall be Natural Gas which is not complying with the quality specification in the Storage Specification (Annex 3 of the Storage Service Agreement).





**"Online Booking System"** means the online tool of the Storage Service Provider at the Storage Portal for booking of the Storage Services by the Storage Customer.

**"Operating Agreement"** in the form attached in Annex 1 of the Storage Service Agreement stipulate the general conditions of cooperation between the Storage Service Provider and the Storage Customer in the operational execution of the Storage Service Agreement.

**"Proof of Authorisation"** or **" Notice of Responsibility"** lists the competent contact persons and their respective contact details required for the operational execution of the Storage Service Agreement and furnishes proof that the particular contact person shall be authorised to execute the Storage Service Agreement upon submission of a corresponding permit by a duly authorised representative of the particular Storage Customer as the sample declaration presented on the Storage Portal.

**"Qualified Storage Customer"** shall be any Storage Customer that respectively fulfills the obligatory requirements pursuant to Article 6 hereof.

**"Reference Price"** means the monthly cross-border price for Natural Gas (euro/terrajoule) published by the Federal Office of Economics and Export Control (BAFA) at the moment of invoicing. The product of the conversion of the cross-border price for Natural Gas to eurocent/kWh is rounded to two decimal places.

**"Registration"** means the registration at the Storage Portal by the submission of the required data pursuant to Article 4.1 by the Storage Customer in compliance with the requirements of the Storage Service Provider at the Storage Portal for accessing the Online Booking System by the Storage Customer.

**"Re-nomination"** shall be the Storage Customer's change of a previous Nomination in accordance with the procedure described in the Operating Agreement.

**"Shipper Code"** means a specific code issued by the Storage Service Provider for identifying the Storage Customer.

**"Short-Term Agreements"** means Storage Service Agreements with a full year term of one (1) to five (5) years.

**"Storage Access Conditions"** means the General Terms and Conditions of Access to the Katharina Natural Gas Storage Facility generally applicable for



offering the Storage Capacities and the related Storage Services as amended from time to time and as further defined in the Preamble.

**"Storage Capacities"** mean the Injection Capacities, the Withdrawal Capacities and the Working Gas Volume as well as the associated services (e.g. Allocation, invoicing) in the aggregate.

**"Storage Customer"** means any natural or legal person that has successfully passed its Registration and has entered into a Storage Service Agreement with the Storage Service Provider who has and is still qualified as Storage Customer by furnishing proof of fulfillment the minimum requirements pursuant to Article 6.1. hereof.

**"Storage Customer's Storage Account"** describes the determination of the Storage Customer's Storage Level based on the Storage Customer's Allocation and the Storage Customer's Storage Level of the previous determination.

**"Storage Customer's Storage Level"** shall for a specific point in time be the Storage Customer's accumulated volume the Injection Gas minus the Withdrawal Gas.

**"Storage Customer's Counter-Notice of Deprivation"** shall be the written notice by the Storage Customer exercising its right to contradict a Notice of Deprivation as defined in Article 11.4 hereof.

**"Storage Day"** means the period beginning at 06:00 hours in the morning (CET/CEST) of each Calendar Day and ending at 06:00 hours in the morning (CET/CEST) of the following Calendar Day. Storage Day can consist of 23 or 25 hours in case of switching from CET to CEST and vice versa.

**"Storage Facility"** see "Katharina Natural Gas Storage Facility".

**"Storage Fee"** means the fee stipulated in the Storage Service Agreement to be paid by the Storage Customer to the Storage Service Provider for particular Storage Services pursuant to the provisions of the Storage Specification consisting of a Fixed Storage Fee and a Variable Storage Fee.

**"Storage Period"** means the agreed period between the First Utilization Day and the Last Utilization Day of corresponding Storage Services under the respective Storage Services Agreement.



**"Storage Portal"** means the Storage Service Provider's internet-based platform on the website [www.ugs-katharina-speicherportal.de](http://www.ugs-katharina-speicherportal.de)

**"Storage Services"** mean the Storage Capacities offered to the Storage Customer at the Storage Facility in accordance with the Storage Specification consisting of one or several Bundled and/ or Unbundled Products.

**"Storage Service Agreement"** means the legally binding agreement entered into by and between the Storage Customer and the Storage Service Provider pursuant to Article 7 hereof.

**"Storage Services Request"** means a binding offer made by a potential Storage Customer pursuant to Article 4 hereof to enter into a Storage Service Agreement.

**"Storage Specification"** in the form attached in Annex 3 of the Storage Service Agreement stipulates the operational parameters of the Storage Facility.

**"Storage Year"** begins on the first Day of the Month of April at 06:00 hours (CET/CEST) and ends on the first Day of the same month of the following year at 06:00 hours (CET/CEST).

**"Unbundled Product"** consists of Withdrawal Capacities, Injection Capacities and Working Gas Volume in a ratio to be booked at the Storage Customer's sole discretion. Depending on the type of Storage Service these Unbundled Products may either be booked individually together with Bundled Products or as a single product.

**"Variable Storage Fee"** means a fee to be determined depending on the costs of energy consumed during the usages of the Storage Services when physical injection and/ or withdrawal of Natural Gas actually takes place subject to further clarification in the Storage Specification.

**"Warning of Deprivation"** shall be the written notice by the Storage Service Provider threatening the Storage Customer with Deprivation and explaining the reasons as described in Article 12.2 hereof.

**"Week"** shall commence on a Monday at 06:00 hours (CET/CEST) and shall terminate on the next following Monday at 06:00 hours (CET/CEST).

**"Withdrawal Capacity"** means the hourly maximum withdrawal quantity of Natural Gas in cubic meters which is held by the Storage Service Provider on



demand for the Storage Customer as contracted under the Storage Service Agreement for the withdrawal of Withdrawal Gas at the Withdrawal Point in compliance with the corresponding Withdrawal Parameters as further determined in the Storage Specification.

**"Withdrawal Gas"** means the quantity of Natural Gas expressed in m<sup>3</sup> which shall be delivered by the Storage Service Provider to the Storage Customer for withdrawal at the Withdrawal Point of Storage Facility.

**"Withdrawal Parameters"** determine the maximum Withdrawal Capacity in relation to the Storage Customer's Storage Level of the Working Gas Volume of the Storage Customer as further determined in the Storage Specification.

**"Withdrawal Point"** means the Delivery Point at which the Storage Service Provider redelivers the Withdrawal Gas to the Storage Customer.

**"Working Day"** means any weekday from Monday to Friday which is not a public holiday in Germany. December 24 (Christmas Eve) and December 31 (New Year's Eve) shall not be regarded as working days.

**"Working Gas Volume"** or **"Working Gas"** means the contracted Natural Gas quantity in m<sup>3</sup> which is owned by the Storage Customer for injection into and withdrawal from the Storage Facility.

**"Year"** means the time from 06:00 hours (CET/CEST) of any Day to 06:00 hours (CET/CEST) of the same Day of the following calendar year.

## **2. Scope: Storage Service Agreement and Storage Services**

2.1. These Storage Access Conditions contain the general provisions of access to the Storage Facility and the conditions for initiation, conclusion and execution of Storage Service Agreements, pursuant to which the Storage Service Provider shall provide Storage Services to the Storage Customer. The Storage Service Provider offers its available Working Gas Volume as Bundled Products and/or Unbundled Products pursuant to the Storage Specification under Long-Term Agreements, Medium-Term Agreements and Short-Term Agreements while Short-Term Agreements are offered in auctions only. The procedure and allocation regulations applicable for each auction stage shall be available on the Storage Portal. Outside the context of an open season procedure, the Storage Service Provider shall examine and determine whether the requested Storage Capacities are available on the



basis of the existing contractual obligations and shall act as a reasonable and prudent operator, in a non-discriminatory manner and in compliance with the generally recognized latest technology available.

- 2.2. The physical services hereunder shall commence at the moment the Injection Gas is accepted by the Storage Service Provider at the Injection Point and shall terminate at the moment the Withdrawal Gas is delivered to the Storage Customer at the Withdrawal Point.
- 2.3. These Storage Access Conditions (as amended from time to time) form a part of each Storage Service Agreement. The Storage Service Provider hereby clarifies that regardless of any terms and conditions of purchase (AGB's) used by any Storage Customer, the provisions of these Storage Access Conditions shall apply exclusively to any Storage Service Agreement signed with the Storage Service Provider in respect of the Storage Facility. The inclusion into such Storage Service Agreement of general terms and conditions of purchase used by the Storage Customer shall expressly be denied.
- 2.4. The Storage Access Conditions published by the Storage Service Provider on the Storage Portal at the moment of conclusion of any respective Storage Service Agreement shall form an integral part of such Storage Service Agreement. Should contradictions or discrepancies in meaning between the provisions of the Storage Access Conditions and the provisions of the Storage Service Agreement, occur, the provisions of the Storage Service Agreement shall prevail. These Storage Access Conditions shall only apply to businesses as defined in Article 14 of the German Civil Code (BGB). Businesses according to Article 14 of the German Civil Code are individual persons or legal entities or partnerships with legal capacity that act in their commercial or professional capacity when they enter into legal transactions with the Storage Service Provider.
- 2.5. Any deviations from the provisions of these Storage Access Conditions shall only become effective with the express prior written consent of the Storage Service Provider.

### **3. Modification of the Storage Access Conditions**

- 3.1. The Storage Service Provider shall be entitled to modify and amend these Storage Access Conditions (including its Annexes) at any time at its sole



discretion. Without prejudice to Article 3.2 hereof, these changes shall then apply to all existing and future Storage Service Agreements.

3.2. Notwithstanding Article 3.3 hereof the Storage Customer has the right to reject any or all changes to the Storage Access Conditions. Said declaration of disagreement shall be provided within thirty (30) Working Days after the changed Storage Access Conditions have become effective.

3.3. Provided such amendments are not detrimental to the Storage Customers' interests the Storage Service Provider shall be entitled to modify and amend these Storage Access Conditions (including its Annexes), from time to time without consent of the Storage Customer

- if necessary to comply with requirements imposed by national or international governmental authorities, in particular laws, legal regulations or legally binding allegations of national or international courts or authorities, particularly any Regulatory Authority, such as the Federal Network Agency (the Germany “Bundesnetzagentur”) or the European Commission or to comply with the requirements under any agreement reached between the Storage Service Provider and a governmental authority;
- if necessary in the Storage Service Provider’s reasonable discretion in order to maintain the operative integrity and operability of the Storage Facility and/ or in order to comply with generally recognized technology rules or definitions, in particular by amending the Operating Agreement (Annex 1), the requirements for gas quality, temperature and pressure and the technical requirements, the Allocation Procedure or any other terms of these Storage Access Conditions (including its Annexes) that are related to the operation of the Storage Facility also resulting from the rules and requirements of the Neighboring Network Operators. In such case the Storage Service Provider shall inform the Storage Customer as soon as possible about such changes. Said changes pursuant to this Article 3.3 shall become effective with three (3) Months’ notice unless it is reasonably necessary that such changes are implemented with immediate effect in which case the Storage Service Provider shall inform the Storage Customer as soon as possible.

3.4. If changes to the Storage Access Conditions result in detrimental economic disadvantages to the Storage Customer that according to Article 313 Section 1 of the German Civil Code (BGB) it cannot reasonably be expected from the Storage Customer to be held to the Storage Service Agreement, the Storage Customer has the right to terminate its Storage Service Agreement. Said





termination shall be possible with a fifteen (15) Working Days prior notice to the end of the Month following the Month in which the changes are intended to take effect. Claims for compensation due to changes shall explicitly be excluded.

- 3.5. In case of the Storage Customer's disagreement with the changes to the Storage Access Conditions pursuant to Article 3.2 hereof, the Storage Service Provider has the right to terminate the respective Storage Service Agreements as of the end of the Month following the date of the effectiveness of the changes. Said termination shall be made with a notice period of fifteen (15) Working Days.
- 3.6. A particular number and the corresponding modifying date shall be affixed to any modified version of the Storage Access Conditions. Unless otherwise stated the modified Storage Access Conditions shall become effective immediately on publication by the Storage Service Provider on the Storage Portal. In addition, any person interested shall be entitled to access both the currently valid version and the previously valid version of the Storage Access Conditions on the Storage Portal
- 3.7. Notwithstanding the provisions of this Article 3 hereof the Storage Service Provider has the right at any time to correct obvious spelling mistakes and/or arithmetical errors, contact details and/or errors concerning the technical data included in the current version of the Storage Access Conditions without any notice to the Storage Customer.

#### **4. Registration, Storage Services Requests, Use of the Storage Portal**

- 4.1. Any real or legal person that fulfills the requirements pursuant to these Storage Access Conditions may become registered on the Storage Portal as potential Storage Customer. To register any potential Storage Customer shall commence and fulfill the Registration process on the Storage Portal by delivering the required information. In return the account of the respective person will be opened on the Storage Portal. With the help of such registration any such person may gather further detailed information on the Storage Services offered by the Storage Service Provider and Storage Capacities freely available at that moment in time together with the opportunity to immediately submit Storage Services Requests for such Storage Services and Storage Capacities.



Upon successful Registration, the Storage Customer shall be promptly provided by email with his personal data for access to the Online Booking System, and may thus inspect and calculate any Storage Capacities freely available and submit its binding Storage Services Requests through the Online Booking System.

The information presented on the Storage Portal on whether the Storage Capacities of the Storage Facility are freely available, have been reserved or firmly booked shall not be binding but solely indicate Storage Capacities to the Storage Customer that may presumably be contracted and is subject to further verification by the Storage Service Provider. The Storage Service Provider does not provide any guarantee that any of the Storage Capacities marked as freely available may indeed be contracted.

Any potential Storage Customer registered on the Storage Portal shall treat the access data communicated to it confidential and protect such data against any unauthorized access by third parties and refrain from providing the data to any third parties. If the access data are wrongfully used by a third party, the person whose access data was wrongfully used, shall be liable for any damages suffered by the Storage Service Provider as a result of such wrongful use (including, but not limited to, any indirect damage, in particular any loss of profit) provided that such person is responsible for the wrongful use of the access data. The Storage Customer shall guarantee the accuracy of the data transmitted to the Storage Service Provider in the Registration process. The change in any data shall immediately be notified to the Storage Services Provider. The Storage Service Provider reserves its right to exclude any registered persons from using the Storage Portal, by blocking the access data, in particular if and when the communicated data for Registration is or has become inaccurate or if any wrongful use of the respective account was detected.

The Storage Service Provider shall make the Storage Portal available within the scope of the currently available state of the art technical standard and make every economically reasonable effort to ensure the availability of the Storage Portal. The Storage Service Provider shall be entitled to temporarily limit or interrupt the use for security, maintenance and or any other reasons to ensure the availability of the Storage Portal. The same shall apply in case of unforeseen technical problems, in particular hardware or software errors. The Storage Service Provider shall inform registered users of the Storage





- Portal of the limited use of the Storage Portal by e-mail or, if necessary, via telefax.
- 4.2. Upon Registration the potential Storage Customer may make binding Storage Services Requests on the Storage Portal that shall become binding only upon the Storage Service Provider's corresponding acceptance of such Storage Services Requests in line with these Storage Access Conditions.
  - 4.3. The Storage Capacities available shall be provided as Bundled and/ or Unbundled Products at a Storage Fee pursuant to the provisions of the Storage Specification (see Annex 3 of the Storage Service Agreement).
  - 4.4. A complete Storage Services Request shall be in line with the provisions of the Storage Specification (see Annex 3 of the Storage Service Agreement) and include the following information and any other data to be entered into the mandatory fields of the entry mask on the Storage Portal:
    - 4.4.1. the Storage Customer data (name, address, contact persons etc.) and
    - 4.4.2. Storage Period (as set out in Article 7.2) and
    - 4.4.3. Designation of the Bundled and/ or Unbundled Products requested for and
    - 4.4.4. amount of Bundled and/ or Unbundled Products requested for
  - 4.5. Any Storage Services Request shall be submitted by entering the required information into the corresponding entry mask made available by the Storage Service Provider on the Storage Portal. The Storage Service Provider endeavors to provide the Storage Customer with a non-binding confirmation of receipt of the Storage Services Request by email. Should technical reasons prevent the receipt of any Storage Services Request on the Storage Portal, Storage Services Requests may be submitted in written form by post or by fax or by email to the Storage Service Provider. Official contact information of the Storage Service Provider is published on the Storage Portal.
  - 4.6. Any Storage Services Request shall observe the applicable deadlines set out in Article 7.2 hereof respectively related to the different terms of the requested agreements.
  - 4.7. Any complete Storage Services Request shall remain valid until it shall be either accepted or rejected by the Storage Service Provider pursuant to Article 5.3 hereof. In case the Storage Services request is not accepted or rejected by the Storage Service Provider within twenty (20) Working Days



after the Storage Service Provider has received it, the Storage Customer shall be entitled to withdraw in writing from its Storage Services Request. In the event that the Storage Service Provider accepts the Storage Services Request without any additions, limitations or other material amendments, the Storage Customer shall be bound by the Storage Services Request and a Storage Service Agreement shall be concluded subject to Article 7 hereof.

## **5. Processing of the Storage Services Requests by the Storage Service Provider.**

- 5.1. Taking into account the Storage Service Provider's existing contractual obligations, the Storage Service Provider shall diligently and on a non-discriminatory basis verify and determine in accordance with the generally accepted technical standards whether the Bundled and/ or Unbundled Products requested in the Storage Services Request are actually available at the Storage Facility.
- 5.2. Should the Storage Services Request have been submitted incompletely, i.e. in non-compliance with the provisions of Article 4.4 hereof, the Storage Service Provider shall notify the Storage Customer within three (3) Working Days at the latest upon receipt of such request, which additional information shall be required for processing the request. The Storage Customer shall submit the required information within three (3) Working Days upon receipt of the Storage Service Provider's notification in written form pursuant to the provisions of Article 4.5 hereof. Upon receipt of the missing information the Storage Service Provider will apply the procedure described in Article 5.1 hereof.
- 5.3. The Storage Service Provider shall reply to the Storage Customer's complete Storage Services Request within ten (10) Working Days. Any rejection of request shall be substantiated accordingly ("**Notice of Rejection**") by email, fax or mail. Should the request be accepted, the Storage Service Provider shall provide the Storage Customer with two copies of a corresponding Storage Service Agreement, which have already been signed by the Storage Service Provider, for counter-signature by the Storage Customer and return of one copy to the Storage Service Provider.
- 5.4. Should the Storage Service Provider accept the Storage Services Request with additions, restrictions or any other material amendments, the Storage Service Provider may provide the Storage Customer with two copies of a draft Storage Service Agreement as an offer for the conclusion of a Storage



Service Agreement, which have already been signed by the Storage Service Provider, for counter-signature by the Storage Customer and return of one copy to the Storage Service Provider.

- 5.5. Under all circumstances the aforementioned documents together with the proof required pursuant to the provisions of Articles 6.1.2-6.1.5 hereof shall be sent by the Storage Customer to the Storage Service Provider within ten (10) Working Days after the reception of the aforementioned documents. The term is only observed if the Storage Service Provider receives the aforementioned documents and the proof required pursuant to Articles 6.1.2-6.1.5. Should the Storage Customer fail to fulfill such obligations within the period specified, any intended Storage Service Agreement shall not become legally effective.

## **6. Minimum Requirements to be Fulfilled by the Storage Customer**

- 6.1. The conclusion and execution of any Storage Service Agreement with the Storage Service Provider shall require the Storage Customer to fulfill the subsequent obligatory requirements and to submit proof thereof: Any Storage Customer that
- 6.1.1. has successfully passed the Registration pursuant to the provisions of the Storage Access Conditions, in particular has furnished the Proof of Authorization;
  - 6.1.2. has proven credit worthiness and deposited a security in the form of a surety or any equivalent security pursuant to the provisions of Article 26 hereof; and
  - 6.1.3. is insured against risks of third-party liability by having contracted a sufficient liability insurance policy pursuant to Article 27 hereof; and
  - 6.1.4. is in possession of the required statutory permits or has notified the competent authorities of its energy supply operations as prescribed by law; and
  - 6.1.5. owns the required infrastructure that warrants full 24-hour availability and has passed a Communication Test; shall be regarded and recognized as Qualified Storage Customer as long as such person fulfills the previously described requirements.
- 6.2. The Storage Service Provider's recognition of any natural or legal person as a Qualified Storage Customer may not be unreasonably withheld. The reasons for withholding the recognition of the Storage Customer as a



Qualified Storage Customer shall be submitted by the Storage Service Provider in writing.

- 6.3. The Storage Customer shall notify the Storage Service Provider without undue delay of any event or circumstance that in the Storage Service Provider's reasonable assessment may impair its recognition as a Qualified Storage Customer pursuant to the provisions of Article 6.1 hereof. Furthermore the Storage Customer shall notify the Storage Service Provider of any change of shareholders, owners or legal successors of the Storage Customer pursuant to the provisions of the German Transformation Act (UmwG), or of any other material changes to the status of the Storage Customer, which, after reasonable commercial evaluation, would allow for the assumption that the respective Storage Customer may no longer be regarded as to having the ability to fulfill the obligations assumed pursuant to the provisions of the Storage Service Agreement in a diligent manner. Such notification shall comprise sufficient information on the actual status of the respective Storage Customer to enable the Storage Service Provider to assess whether such Storage Customer may still be recognized as a Qualified Storage Customer pursuant to the provisions of Article 6.1 hereof.
- 6.4. Should the Storage Customer not fulfill the requirements pursuant to the provisions of Articles 6.1 and 6.3, the Storage Customer shall not be recognized as Qualified Storage Customer or shall lose its qualification as a Qualified Storage Customer. As a consequence any related Storage Service Agreement shall not come into effect pursuant to Article 5.5 and 7.1 hereof or, if the Storage Customer loses its clarification as Qualified Storage Customer, the Storage Service Provider shall be entitled to terminate the Storage Service Agreement with immediate effect.

## **7. Conclusion of a Storage Service Agreement**

- 7.1. Subject to the fulfillment of the requirements of the Articles 6.1, 6.3 and 7.3 hereof (i) in case the Storage Service Provider accepts the Storage Services Request without any additions, restrictions or any other material amendments the Storage Service Agreement shall become effective upon acceptance of the Storage Services Request by the Storage Service Provider; (ii) in case the Storage Service Provider accept the Storage Services Request with additions, restrictions or any other material amendments pursuant to Article 5.4 hereof, this shall be regarded as an offer for the conclusion of a Storage Service Agreement submitted to the Storage Customer and the Storage Service



Agreement shall become effective upon acceptance of such offer by the Storage Customer.

- 7.2. Storage Service Agreements with a term of
  - 7.2.1. seventeen (17) years (“Long-Term”) may be bindingly requested any time;
  - 7.2.2. from six (6) to sixteen (16) (respectively full) years (“Medium-Term”) may be bindingly requested not earlier than 1 Year prior to the intended commencement of the requested Storage Period unless the Storage Service Provider makes a differing announcement on the Storage Portal;
  - 7.2.3. two (2) to five (5) (respectively full) years may be bindingly requested in the context of auction stages not earlier than 1 Year prior to the intended commencement of the Storage Period unless the Storage Service Provider makes a differing announcement on the Storage Portal;
  - 7.2.4. one year can bindingly be requested and concluded not earlier than 3 Months prior to the intended commencement of the Storage Period;
- 7.3. For technical reasons of system processing, any Storage Service Agreement shall be concluded by the Storage Service Provider and the Storage Customer not later than ten (10) Working Days prior to the commencement of the respectively requested Storage Period, otherwise the conclusion of any Storage Service Agreement shall be subject to the express written consent of the Storage Service Provider. The requirement to conduct and pass the Communication Test shall not be affected hereby.
- 7.4. The Storage Capacities may only be contracted in m<sup>3</sup> for the entire Storage Period.
- 7.5. The Bundled and/ or Unbundled Products offered by the Storage Service Provider shall be allocated among the Storage Customers in conformity with a pro-rata Allocation Procedure i.e. in case any complete Storage Services Request by any Storage Customer is received in relation to the same Storage Services that are not already booked by a different Storage Customer with a legally binding agreement, the requested services shall be allocated pro-rata to the respective Storage Customers.



7.6. The Storage Service Agreement entered into by the Storage Service Provider and the Storage Customer shall have the agreed Storage Period as further determined in the Storage Service Agreement.

## **8. Subject of the Storage Service Agreement**

- 8.1. Upon conclusion of a Storage Service Agreement pursuant to the provisions of Article 7, the Storage Service Provider shall provide the Storage Customer with the contracted Storage Capacities and the related Storage Services during the agreed Storage Period. The Storage Customer shall be entitled to utilize the Storage Capacities and, in particular, be obliged to pay the agreed Storage Fee.
- 8.2. Should the Storage Customer utilize any Storage Capacities exceeding the parameters pursuant to the provisions of Article 8.1, the Storage Customer shall pay an additional Fee for Exceeding Storage Capacities pursuant to the provisions of the Storage Specification. The right of rejection by the Storage Service Provider of such Exceeding Storage Capacities pursuant to the provisions of Article 9.1 hereof shall remain unaffected.
- 8.3. The Natural Gas allocated and/or nominated for injection pursuant to the provisions of Article 15.1 hereof shall be delivered by the Storage Customer to the Storage Service Provider at the Injection Point.
- 8.4. The Storage Service Provider shall accept the Natural Gas delivered by the Storage Customer for injection at the Injection Point pursuant to Article 8.3 hereof at the same time and at the same quantity.
- 8.5. The Storage Service Provider shall deliver the Natural Gas allocated and/or nominated by the Storage Customer for withdrawal at the Withdrawal Point pursuant to the provisions of Article 15.1 hereof at the same quantity as injected pursuant to the provisions of Article 8.4 hereof.
- 8.6. The Storage Customer shall accept the Withdrawal Gas made available by the Storage Service Provider for withdrawal at the Withdrawal Point pursuant to the provisions of Article 8.5 hereof at the same quantity.
- 8.7. A withdrawal of the Natural Gas shall require the prior injection. The Storage Customer's Storage Account shall never be lower than zero (0) or higher than the Working Gas Volume agreed upon in the Storage Service Agreement.





- 8.8. Nominations may also be made on behalf of the Storage Customer by any mandated third party. This third party shall be able to comply with the operational provisions of the Storage Service Agreement. However, the Storage Customer shall at all times remain liable for the Nominations made on its behalf.
- 8.9. In the course of injection and withdrawal, the quantities of Injection Gas and/or Withdrawal Gas owned by any individual Storage Customer may be mixed with Natural Gas quantities owned by other Storage Customers. There shall be no obligation of the Storage Service Provider to ensure the Identity of the Natural Gas. The Injection Gas shall remain the (joint) property of the Storage Customer(s).
- 8.10. If the Storage Service Provider acting reasonable has reason to fear that non-compliance with the provisions of any Storage Service Agreement by the Storage Customer may cause considerable impairment to the Storage Facility, any rights of third parties or the supply security, the Storage Service Provider shall be entitled to reduce, limit or discontinue the provision of the Storage Services.

## 9. Exceeding Storage Capacities

- 9.1. The Storage Customer shall be entitled to utilize the Storage Capacity contracted pursuant to the provisions of the Storage Service Agreement in the form of Bundled and/ or Unbundled Products as further determined in the Storage Specification (see Annex 3 of the Storage Service Agreement). The Storage Customer shall not be entitled to utilize the Storage Capacities beyond these agreed terms and conditions and the Storage Service Provider shall be entitled to reject any such utilization ("**Right of Rejection**").
- 9.2. In case the Storage Customer's Allocation of Natural Gas quantities at the Delivery Point in any Hour exceeds the agreed Injection Capacity or Withdrawal Capacity, respectively, an Exceeding Storage Capacities event has occurred. Said Exceeding Storage Capacities will be determined by subtracting the Injection Capacity or Withdrawal Capacity from the allocated hourly Natural Gas quantities. An hourly excess shall be without prejudice to the contracted Storage Capacities.



- 9.3. In case a Storage Customer exceeds its maximum Injection Capacity or Withdrawal Capacity and in case that the Storage Service Provider doesn't exercise its Right of Rejection in accordance with Article 9.1 hereof the Storage Service Provider has the right to charge a Fee for Exceeding Storage Capacities in accordance with the Storage Specification. The Fee for Exceeding Storage Capacities will for said Storage Day be determined in accordance with the procedure described in the Storage Specification, unless the Storage Customer provides for reasonable evidence that the relevant Neighboring Natural Gas Network was not sufficiently available or that the Storage Customer for other evidenced reasons was not responsible for the excess.
- 9.4. In case during any Hour the Storage Customer's Storage Account is less than zero (0) the Storage Customer has exceeded its respective Storage Customer's Storage Level. The quantity of Natural Gas between the Storage Customer's Storage Level and zero (0) shall be deemed to be delivered by the Storage Service Provider to the Storage Customer and will be charged at a price in accordance with the Storage Specification, unless the Storage Customer provides for reasonable evidence that the relevant Neighboring Natural Gas Network was not sufficiently available or that the Storage Customer for other evidenced reasons was not responsible for the excess.
- 9.5. In case during any Hour the Storage Customer's Storage Level has exceeded the agreed Working Gas Volume, this exceeding Natural Gas quantities shall be deemed delivered by the Storage Customer to the Storage Service Provider and shall be invoiced pursuant to the provisions of the Storage Specification, unless the Storage Customer is not responsible for the excess.
- 9.6. The Storage Service Provider shall inform the Storage Customer as soon as reasonably practicable about the circumstances causing the payment of a Fee for Exceeding Storage Capacities.

## **10. Secondary Trading**

- 10.1. The Storage Customer shall be entitled to wholly or partially sublet its Storage Capacities to a third party by entering into secondary gas storage contracts with third parties subject to a prior written notice of information to the Storage Service Provider. The partial sublet shall not include a partial sublet of a Bundled Product.





- 10.2. In case of the conclusion of a secondary gas contract by way of sublet with third parties the Storage Customer shall remain fully liable for its obligations under its Storage Service Agreement to the Storage Service Provider, in particular for its obligations to pay the respective Storage Fee and to provide for the required credit security pursuant to Article 26 hereof.
- 10.3. Notwithstanding the above any Contracting Party may transfer the Storage Service Agreement to a third party in accordance with the provisions described in Article 33 hereof.

## **11. Transfer of Natural Gas in the Storage Facility**

- 11.1. Storage Customer shall be entitled to transfer the ownership of the Natural Gas stored in the Storage Facility to other Storage Customer(s) of the Storage Facility. Such transfer of Natural Gas shall be subject to the physical availability of sufficient Working Gas Volume on the part of the parties involved in the transaction. Such transfer within the Storage Facility does not require any Injection or Withdrawal Capacities.
- 11.2. Title to the Natural Gas delivered by Storage Customer for storage in the Storage Facility shall at all times remain with Storage Customer. Without prejudice to Sections 14 and 19 risks of loss or damage of the Gas shall pass from Storage Customer to EPG at the Delivery Point in case of injection of the Gas into the Storage Facility and from EPG to Storage Customer at the Delivery Point in case of withdrawal of the Gas from the Storage Facility.

## **12. Deprivation of the Storage Capacities (Use-it-or-lose-it principle)**

- 12.1. To prevent or remedy abusive hoarding of Storage Capacities in the Storage Facility, the Storage Service Provider may deprive any Storage Customer from its Storage Capacities, any rights related to or associated with or derived from such Storage Capacities contracted pursuant to the provisions of the Storage Service Agreement, in return the Storage Customer shall lose any of these rights to the extent these were not utilized and for a period for which the abusively hoarded Storage Capacities are required, subject to the following conditions:
- The Storage Service Provider in his reasonable opinion determines a bottleneck of Storage Capacities meaning that the available storage capacities in the German storage market are severely limited e.g. due to lack of capacities and/ or high demand, and



- The Storage Customer concerned has not utilized the Storage Capacities contracted pursuant to the provisions of the Storage Service Agreement for at least twelve (12) consecutive Months.
- 12.2. The Storage Service Provider shall notify the Storage Customer in writing that the conditions defined in Article 12.1 hereof have been determined. In this notice ("**Warning of Deprivation**"), the Storage Service Provider shall state the beginning, extent and duration of the Deprivation of the Storage Capacities. The Storage Service Provider shall give the Storage Customer the opportunity to make representations on this matter. Upon receipt of the Warning of Deprivation the Storage Customer shall offer the relevant Storage Capacities to a third party within one (1) Month or prove conclusively to the Storage Service Provider that it still requires such Storage Capacities for its own needs in order to fulfill existing contractual obligations.
- 12.3. Should the Storage Customer fail to offer the relevant Storage Capacities to a third party or fail to prove a further need for such Storage Capacities in accordance with the procedure described in Article 12.2 hereof, the Storage Service Provider shall be entitled to issue a Notice of Deprivation. Said Notice of Deprivation shall outline the beginning, the duration and extent of the Deprivation of the relevant Storage Capacities.
- 12.4. The Storage Customer shall be entitled to object to the Deprivation of Storage Capacities by the Storage Service Provider in writing within ten (10) Working Days upon receipt of the Notice of Deprivation pursuant to the provisions of Article 12.3 hereof (Storage Customer's Counter-Notice of Deprivation). The objection shall be deemed justified if the Storage Customer can prove conclusively that it continues to require the Storage Capacities which the Storage Service Provider demands to be released in order to fulfill existing contractual obligations.
- 12.5. If the Storage Customer's Counter-Notice of Deprivation has been submitted within the period specified and has been sufficiently substantiated, it shall be within the Storage Service Providers' reasonable discretion to accept the objection and to abandon the Notice of Deprivation. Should the Storage Service Provider not abandon the Notice of Deprivation, the decision on such Deprivation shall be transferred to an independent third party to be mutually nominated by both the Storage Service Provider and the Storage Customer. Any decision made in this respect by such third party shall be binding upon both the Storage Service Provider and the Storage Customer.



12.6. Subject to the provisions of Articles 12.4 and 12.5 hereof, the Storage Customer shall be exempt from any payment obligations pursuant to the provisions of the Storage Service Agreement to the extent specified in the Notice of Deprivation, should the Deprivation of the Storage Capacities become effective pursuant to the provisions of Article 12.3 hereof.

### **13. Storage Customer's Storage Account**

13.1. The Storage Service Provider shall keep a Storage Customer's Storage Account for any Storage Customer, indicating both the Storage Customer's Storage Level on a monthly basis and the Natural Gas Quantities injected and/or withdrawn by this Storage Customer. To the extent possible for the Storage Service Provider from a technical as well as economically reasonable point of view, the Storage Service Provider shall keep the Storage Customer's Storage Account on a weekly, daily or hourly basis. The Storage Customer's Storage Account shall be kept in m<sup>3</sup>.

13.2. The Storage Customer's Storage Account shall for each and every Hour be credited with the quantities of Injection Gas delivered by the Storage Customer to the Storage Service Provider at the Delivery Point.

13.3. The Withdrawal Gas made available by the Storage Service Provider to the Storage Customer at the Delivery Point shall for each and every Hour be debited to the Storage Customer's Storage Account.

13.4. Not later than on the 25<sup>th</sup> Day of any Month, the Storage Service Provider shall provide the Storage Customer with a Monthly Storage Record for the previous Month, indicating the total quantities of Natural Gas injected and/or withdrawn by the Storage Customer. The Storage Customer may object to such Monthly Storage Record within six (6) weeks in writing. If no objections is filed, the respective Storage Customer's Storage Account shall be deemed approved.

### **14. Storage Customer's Storage Level at the End of the Storage Period**

14.1. The Storage Customer's Storage Level at the end of the Storage Period of its Storage Service Agreement shall be zero (0). The Storage Customer shall achieve this by withdrawing its Natural Gas. In case the Storage Service Agreement has been terminated with immediate effect according to Article 16.7 hereunder then the Storage Service Provider shall grant the Storage



Customer a mutually acceptable time period to comply with the above withdrawal obligation.

- 14.2. In case the Storage Customer has not been able to bring its Storage Customer's Storage Level to zero (0) by the end of the Storage Period due to an event of Force Majeure as described in Article 28 hereof or for any other reason within the Storage Service Provider's responsibility pursuant to the provisions of Article 29 hereof it shall have the right to bring back its Storage Customer's Storage Level to zero (0) within a mutually acceptable time period after the termination of the Storage Service Agreement.
- 14.3. In case the Storage Customer has not withdrawn its Natural Gas by the end of the Storage Period as specified in the Storage Service Agreement or after expiration of the mutually acceptable grace period specified in Articles 14.1 and 14.2 hereof, the title of the remaining Natural Gas shall be transferred to the Storage Service Provider at fifty percent (50 %) of the Reference Price.

## **15. Operational Processing of the Storage Service Agreement**

- 15.1. The Storage Customer shall nominate to the Storage Service Provider the Injection Gas and the Withdrawal Gas in accordance with the procedure laid down in the Operating Agreement (Annex 2 of the Storage Service Agreement).
- 15.2. On the basis of the Nomination submitted by the Storage Customer pursuant to the provisions of Article 15.1 hereof, the Storage Service Provider shall be responsible for the flow steering at the Delivery Point.
- 15.3. The Natural Gas quantities at the Delivery Point shall be calculated in compliance with the terms and conditions of the Allocation Procedure agreed upon by the Storage Service Provider and the Neighboring Network Operator. Further details shall be specified in the Operating Agreement (Annex 2 of the Storage Service Agreement).
- 15.4. Without prejudice to Articles 15.1 and 15.2 hereof the Storage Service Provider and/or the Storage Customer shall notify each other without undue delay in the event that they temporarily or for a longer period of time shall be unable to deliver or to accept the nominated quantities of Natural Gas at the Delivery Point.

## **16. Interruption of Services and Termination**



- 16.1. In case of any disturbances or interruptions of Storage Services and/or a change of the confirmed quantities, the dispatchers of the Parties shall inform each other thereof without delay, including details about the envisaged duration of such disturbance or interruption of Storage Services and/or, as the case may, scope of the change of the confirmed quantities. This includes also all necessary information for dispatching purposes of the pipeline and/or the Neighboring Natural Gas Network.
- 16.2. To the extent that the demands on the dispatching result in a need to take actions which are not directly within the control of the dispatchers (such as, for example, availability of capacity at the beginning/end of each injection/withdrawal period), the Parties shall agree as soon as possible on such actions.
- 16.3. The Storage Service Provider has the right pursuant to Sections 16, 16a of the German Energy Industry Act (EnWG) to either interrupt or adjust the contractually agreed services under the Storage Service Agreement, if possible with prior written notification given to the Storage Customer, if not possible, with subsequent written notification.
- 16.4. The Storage Service Provider shall be entitled to interrupt any Storage Services at any time without prior notice, if required and justified in particular, in order to:
- prevent or avert an imminent danger to personnel, facilities or environment, or
  - prevent detrimental effects to the operations of other Storage Customers or to the operation of the Storage Facility and its equipment or of third parties, or
  - to prevent the Natural Gas from bypassing or damaging the metering equipment upon injection or withdrawal, or
  - in case that comparable circumstances do exist or that comparable measures have been taken in the country in which the Contracting Party has its registered office.
- 16.5. The Storage Service Provider shall suspend the respective Storage Capacities only as long as necessary for remedying the causes of the suspension interruptions specified in Article 16.4 hereof as soon as possible if they have not been caused by the Storage Customer. Should the Storage



Customer be responsible for the aforementioned reasons for Storage Services interruption, it shall, upon the Storage Service Provider's written notice, immediately remedy the reasons causing said interruption. If, following such notification, the Storage Customer does not stop the disrupting acts or should the reasons for Storage Services interruption recur due to circumstances for which the Storage Customer is responsible, the Storage Service Provider shall be entitled to terminate the Storage Service Agreement with immediate effect.

- 16.6. Notwithstanding the provisions of Articles 16.3-16.5 hereof, any Contracting Party shall be entitled to suspend its contractual obligations in case of a breach of cardinal provisions of the Storage Service Agreement particularly due to non-fulfillment of payment obligations by the Storage Customer, or that the Storage Service Provider has not fulfilled his material obligations to provide the Storage Services as agreed, unless the other Contracting Party fails to cure the breach within two (2) weeks upon receipt of written notice. In case of a repeated breach of cardinal provisions of the Storage Service Agreement, the respective other Contracting Party shall be entitled to terminate the Storage Service Agreement with immediate effect.
- 16.7. Furthermore, each Contracting Party shall be entitled to terminate the Storage Service Agreement with immediate effect, in case
- the other Contracting Party has filed an application for opening insolvency proceedings against its assets,
  - directives pursuant to Article 21 of the German Insolvency Act (InsO) have been issued against the other Contracting Party, or
  - insolvency proceedings against the other Contracting Party have been opened or their opening has been rejected for lack of funds, or
  - similar proceedings or events under the area of application of any other jurisdiction occur;

Article 314 of the German Civil Code (BGB) and the right to claim damages shall remain unaffected.

- 16.8. In case contractually agreed Storage Services have been interrupted, the Contracting Parties shall remedy the reasons for said interruption of their respective contractual obligations without undue delay.
- 16.9. Upon termination of the Storage Service Agreement the Contracting Parties shall no longer be liable to each other for any contractual claims that have





arisen after expiry of the respective Storage Service Agreement. The obligation of confidentiality pursuant to the provisions of Article 32 hereof shall remain unaffected.

## **17. Delivery Point**

17.1. The Storage Customer shall deliver and the Storage Service Provider shall accept the Injection Gas at the Delivery Point.

The Storage Service Provider shall be entitled to store the Natural Gas injected by a Storage Customer together with the Working Gas of other Storage Customers. Working Gas that is injected into the Storage Facility by a Storage Customer will commingle with the natural gas that is stored in the Storage Facility by other Storage Customers. In accordance with German property law, each Storage Customer storing Natural Gas in the Storage Facility will maintain a co-ownership interest in the aggregate amount of Natural Gas stored in each cavern.

The Storage Service Provider shall not be obliged to store the Natural Gas in any particular cavern of the Storage Facility and shall not be obliged to maintain any records showing in which particular cavern of the Storage Facility the natural gas is or was stored.

17.2. The Storage Service Provider shall deliver and the Storage Customer shall accept the Withdrawal Gas at the Delivery Point.

In the case of withdrawals, the Storage Service Provider shall have no obligation to make available the same molecules of natural gas comprised in the natural gas injected by the Storage Customer. The Natural Gas made available by the Storage Service Provider to a Storage Customer shall be deemed to be the same Natural Gas that was injected by the respective Storage Customer.

## **18. Measurement at the Delivery Point**

18.1. Measurement at Delivery Point shall be performed by the Storage Service Provider or on its behalf by any third party as commissioned by the Storage Service Provider in accordance with the requirements of the German law on measurement and calibration and the internal guidelines of the Neighboring Network Operator and as applicable of the Storage Service Provider.



18.2. The Service Storage Provider shall only use, or ensure the use of licensed and calibrated measurement equipment. Each Storage Customer shall be entitled to request to witness, at its own expense, the regular checks of the measurement equipment that are carried out by the Service Storage Provider if the Storage Customer has reasonable doubts that the measurement equipment generates errors beyond the range of one per cent (1 %).

The Service Storage Provider shall record and evaluate the metering data in accordance with generally accepted rules and techniques. If a Storage Customer has reasonable doubts as to the correctness of the data, the Storage Customer shall be entitled to request that the data is checked by a qualified independent third party. In such case the Service Storage Provider and the Storage Customer shall jointly appoint such third party. The costs of such data check shall be borne by the Storage Customer unless it turns out that the measurements contain errors beyond the range of one per cent (1 %).

In the event that the measurements contain errors beyond the range of one per cent (1%), a recalculation of the measurements shall be carried out. Improperly functioning measurement equipment shall be replaced, repaired or recalibrated.

## **19. Pipeline**

19.1. Access to the Storage Facility shall be provided at the network interconnection point/ border crossing point named “UGS Katharina” initially located at the premises of the UGS Bernburg later subject to its completion access to the Storage Facility shall be provided through a connection pipeline to the network interconnection point of GASCADE Gastransport GmbH at Bobbau. The Storage Customer shall deliver the quantities of Natural Gas to be stored within the Storage Facility at the Delivery Point for injection and shall accept them at this point at withdrawal.

19.2. Each Storage Customer shall be solely responsible for entering into separate agreements for the transportation of the Natural Gas to be injected and withdrawn at the Delivery Point with the Neighboring Network Operator. For the sake of clarity the relevant published Storage Fee does already include transportation costs for using the connection pipeline from the Delivery Point to the Storage Facility and within the network of the surface





storage facilities in the case of injection and vice-versa in the case of withdrawals.

## **20. Gas Quality specification**

- 20.1. The Natural Gas quality specifications are defined in the relevant Storage Specification attached hereto as amended.
- 20.2. The Storage Customer shall deliver Natural Gas at the Injection Point in compliance with the provisions of the Storage Specification. The Storage Customer shall notify the Storage Service Provider in writing without undue delay of any Natural Gas delivered at the Delivery Point in non-compliance with the provisions of the Storage Specification (Off-Spec Natural Gas) by providing detailed information on the cause, extent and expected duration of the quality deviation.
- 20.3. The Storage Service Provider shall at any time be entitled to reject either completely or partly any Off-Spec Natural Gas delivered at the Delivery Point and to demand from the Storage Customer to cease delivery of such Off-Spec Natural Gas at the Delivery Point either completely or partly. Upon receipt of the written notice pursuant to the provisions of Article 20.2 hereof, the Storage Service Provider shall notify the Storage Customer whether and to what extent the Storage Service Provider shall be ready to accept the Off-Spec Natural Gas.
- 20.4. In the event that the Storage Service Provider rejects the Off-Spec Natural Gas either completely or partly pursuant to the provisions of Article 20.3 hereof, the Storage Service Provider shall be released from its obligations assumed pursuant to the provisions of the Storage Service Agreement to the extent necessary.
- 20.5. The Storage Service Provider shall deliver Natural Gas at the Withdrawal Point in compliance with the provisions of the Storage Specification. The Storage Service Provider shall notify the Storage Customer without undue delay in writing of any Off-Spec Natural Gas delivered at the Withdrawal Point, by providing detailed information on the cause, extent and expected duration of the delivery of the quality deviation.
- 20.6. The Storage Customer shall be entitled to reject either completely or partly any Off-Spec Natural Gas delivered at the Delivery Point.



The Storage Customer shall be obliged, if required, to notify the Storage Service Provider in due time of the receipt of notification pursuant to the provisions of Article 20.5 hereof, whether and to what extent the Storage Customer shall be ready to accept the Off-Spec Natural Gas.

- 20.7. The Natural Gas shall be regarded as not being Off-Spec Natural Gas and the Storage Customer's right of rejection according to Article 20.6 hereof shall not apply if and to the extent
- (a) the quality deficiency of the Natural Gas at the Delivery Point has been caused by the Storage Customer's previous delivery of Off-Spec Natural Gas at the Delivery Point,
  - (b) the Natural Gas quantities have been injected by the Storage Customer in non-compliance with the provisions of the Storage Specification or
  - (c) the Network Operator at the Delivery Point accepts such Natural Gas the same.

## **21. Gas Pressure**

- 21.1. The Storage Customer shall ensure that the Injection Gas shall be delivered at the Injection Point at a Gas Pressure enabling the Natural Gas to be transferred to Storage Facility or through its connection pipeline. The Natural Gas pressure specifications have been defined in the relevant Storage Specification.
- 21.2. The Storage Service Provider shall deliver the Withdrawal Gas to the Storage Customer at the Withdrawal Point at a Gas Pressure enabling the Natural Gas to be transferred to the Neighboring Natural Gas Network, taking into account the agreements entered into by and between the Storage Service Provider or any third party on its behalf and the Neighboring Network Operator.

## **22. Technical Requirements**

- 22.1. For technical reasons minimum injection and withdrawal rates for Natural Gas are necessary at the Storage Facility. The Storage Customer's right to utilize its Storage Capacities shall be subject to the minimum injection and withdrawal rates defined in the Storage Specification. The above mentioned minimum injection or withdrawal rates shall not affect the Storage Customer's right to book Storage Capacities below these minimum rates. In case the Storage Customer's Nomination together with the accumulated



Nominations of all other Storage Customers for any Hour fall short of the minimum injection or withdrawal rate the Storage Service Provider has the right to reject the Nominations of all Storage Customers for said Hour. However, the Storage Service Provider shall use reasonable endeavors to enable a gas flow in said Hour.

- 22.2. The Storage Customer's right to utilize its Storage Capacities shall be subject to the gas flow reversal times and start-up times described in the relevant Storage Specification.
- 22.3. Injection or withdrawal, respectively, may not be possible during the whole Year. Times for limitations have been indicated in the relevant Storage Specification.
- 22.4. The Storage Customer's right to utilize its Storage Capacities shall be subject to the limitations by the Injection Parameters or Withdrawal Parameters laid down in the relevant Storage Specification.

### **23. Maintenance and Repair**

- 23.1. The Storage Service Provider shall be entitled to carry out maintenance work (including service, inspection and repair) of the Storage Facility for the avoidance of doubt including the connection pipeline and to perform modifications, construction/ reconstruction or extension of the facilities concerned. If due to the aforementioned maintenance work the Storage Service Provider is unable to fulfill its obligations pursuant to the provisions of the Storage Service Agreement, the Storage Service Provider shall be released from such obligations. The Storage Service Provider shall particularly be entitled to reduce injection or withdrawal of Natural Gas to the extent required for carrying out maintenance work on the facilities concerned.
- 23.2. Planned maintenance work shall, to the extent possible, be carried out as follows:
  - In the course of transition from the injection period (usually from April till October) to the withdrawal period (usually from October till April) and vice versa;
  - Any drying equipment and units as well as all other technical installations not used for injection shall be maintained during the injection period;



- Any equipment and units as well as all other technical installations not used for withdrawal shall be maintained during the withdrawal period.

23.3. The Storage Service Provider shall no later than by 1<sup>st</sup> of July of each Calendar Year notify the Storage Customer in an appropriate manner a preliminary plan of any planned maintenance work to be carried out in the next Calendar Year pursuant to the provisions of this Article. The final version of this planned maintenance work plan shall be provided to the Storage Customer no later than 1<sup>st</sup> September of each Calendar Year. Any scheduled Hours of planned maintenance work shall be published on the Storage Portal.

The Storage Service Provider shall notify in writing the Storage Customer (also by electronic mail) in advance and in an appropriate manner that one or more Hours in any Storage Year are Hours of planned maintenance work ("Maintenance Hour"). For each Maintenance Hour the notice shall specify:

- the date, time and likely duration of the relevant Maintenance Hour(s) and
- the factor indicating the percentage of the Injection Capacity and Withdrawal Capacity which will remain available during the Maintenance Hour(s). Such factor shall be one hundred percent (100%) unless otherwise notified.

The Storage Service Provider shall use reasonable endeavors to co-ordinate its planned maintenance work with the maintenance work of the Neighboring Natural Gas Network, so that the Storage Service Provider's planned maintenance work should take place as far as possible at the same time as the maintenance work of the Neighboring Network Operator.

23.4 The Storage Service Provider shall, to the extent practicable, notify the Storage Customer well in advance of any unscheduled maintenance work and shall specify the aforementioned information pursuant Article 23.3. In the event that circumstances prevent the Storage Service Provider from notifying the Storage Customer well in advance of any unscheduled maintenance work to be carried out, particularly in the event of imminent danger or other urgent measures, the Storage Service Provider shall notify the Storage Customer immediately after it had learned about such work to be carried out. Any notification under this Article shall be deemed as being appropriate if published on the Storage Portal and sent by electronic mail to the Storage Customer.



23.5 The number of planned Maintenance Hours in any event shall not exceed:

- a) five hundred and four (504) Maintenance Hours that may occur in every four (4) consecutive Storage Years in respect of Injection Capacity;
- b) five hundred and four (504) Maintenance Hours that may occur in every four (4) consecutive Storage Years in respect of Withdrawal Capacity.
- c) without prejudice to point a) and b), three hundred and thirty six (336) weighted Maintenance Hours that may occur in each Storage Year in respect of Injection Capacity and Withdrawal Capacity.

The Storage Customer shall not be exempted from its store-or-pay obligation to the extent that the Storage Service Provider's inability to provide services under this Storage Service Agreement does not exceed the before mentioned Maintenance Hours. In excess of the above planned Maintenance Hours the Storage Customer shall be released from payment of the Storage Fee and the provisions of Article 29 hereof ("Liability") shall apply. Maintenance measures enacted pursuant to Article 16, Paragraphs 2 and 3 of the German Energy Law (EnWG) shall not be regarded as maintenance works for the purpose of the determination of the before mentioned Maintenance Hours.

23.6 In case of any technological Storage Facility downtime besides planned maintenance work, the Storage Service Provider shall be entitled to reduce or completely discontinue the availability of Storage Capacities, subject to immediate notification of Storage Customer thereof, but in any case the Storage Service Provider shall make every reasonable efforts in order to restore the availability of Storage Capacities as soon as practically possible. The period of reduction of the Storage Capacity due to the Storage Service Provider downtime shall not exceed what is reasonably required for the purposes of maintenance, and in any event shall be such that:

- a) not more than thirty (30) unplanned Withdrawal Maintenance Hours may occur in each Storage Year and
- b) not more than thirty (30) unplanned Injection Maintenance Hours may occur in each Storage Year.

The Storage Customer shall not be exempted from its store-or-pay obligation to the extent that Storage Service Provider's inability to provide services under this Storage Service Agreement does not exceed the before mentioned unplanned Maintenance Hours. In excess of the above unplanned



Maintenance Hours Storage Customer shall be released from payment of the Storage Fee and the provisions of Article 29 hereof (“Liability”) shall apply. Maintenance measures enacted pursuant to Article 16, Paragraphs 2 and 3 of the German Energy Law (EnWG) shall not be regarded as maintenance works for the purpose of the determination of the before mentioned Maintenance Hours.

## **24. Invoicing and Payment**

- 24.1. The Storage Service Provider shall invoice the Storage Customer the Fixed Storage Fee with reference to the respective time period on a monthly share (one twelfth of the respective yearly amount) as well as the Variable Storage Fee on a monthly basis in each case in accordance with the Storage Specification and the Storage Service Agreement and no later than on the fifth (5<sup>th</sup>) Working Day of the following month (“Due Date”).
- 24.2. The Storage Customer shall pay the invoiced amount including value added tax in Euros if applicable. Any bank charges incurred shall be borne by the Storage Customer.
- 24.3. The Storage Customer shall assure that the payment under any invoice is credited to the bank account stipulated by the Storage Service Provider at the latest on the twenty-fifth (25<sup>th</sup>) Day of the Month in which the invoice is sent. However, the Storage Customer shall not be obliged to pay earlier than five (5) Working Days after receipt of the invoice. An invoice shall be deemed received by the Storage Customer upon receipt either by fax or by e-mail.
- 24.4. In case the Storage Service Provider fails to submit to the Storage Customer in good time the corresponding invoices, the Due Date for payment of such invoices for the Storage Customer shall be postponed by the same number of Days the Storage Service Provider was late in submitting such invoices. Should the Due Date not fall on a Working Day, payment shall fall due on the following Working Day.
- 24.5. By the fifth (5<sup>th</sup>) April of each Storage Year taking into account the costs of the previous Storage Year, EPG shall invoice the potential difference of energy and other costs actually accrued throughout the previous Storage Year and the anticipated costs already paid for up-front as a lump-sum under the Variable Storage Fee up-front under a so-called reconciliation invoice. For the avoidance of doubt: if the anticipated costs exceed the actually accrued costs at the end of any Storage Year, EPG shall reimburse to the





Storage Customer the excess amount. In case the accrued actual costs exceed the anticipated costs covered by payments of the Variable Storage Fee, the Storage Customer shall pay these costs to EPG. The amounts due under any related reconciliation invoice shall be paid by the Storage Customer to the Storage Service Provider within ten (10) Days of receipt of the invoice (“Due Date”). If amounts are due to pay to the Storage Customer, the Storage Service Provider shall pay such amount within ten (10) Days after submitting the reconciliation invoice to the Storage Customer (“Due Date”).

- 24.6. Interest on unpaid amounts under invoices shall run two (2) percentage points above the currently valid 3-month EURIBOR rate adopted by the European Central Bank on the amount payable. The payment of interest shall be without prejudice to further claims of that Contracting Party in case of a late payment.
- 24.7. Objections to an invoice or a reconciliation invoice shall be made within seven (7) Days after receipt of the invoice or reconciliation invoice and in any event within two (2) years from receipt of the respective invoice or reconciliation invoice.

A Contracting Party shall not to be entitled to reduce or withhold payments based on any objection to an invoice or reconciliation invoice save in the case of manifest errors contained in the respective invoice or reconciliation invoice (e.g. calculation errors). Objections made to an invoice or reconciliation invoice do not entitle a Contracting Party to extend the time for payment or to refuse payment or to reduce the amount payable of uncontested elements of the invoice amount.

- 24.8. Payments shall be made into the bank account given on the invoice. The account given on the invoice shall basically correspond to the bank account included in the Storage Service Agreement. However, the Storage Service Provider shall be entitled to change the bank account at any time provided that the Storage Customer is notified of any such change accordingly.
- 24.9. Any invoice or reconciliation invoice shall include the compulsory information required by law and state out separately any charged net amounts.

## **25. Taxes and levies**



- 25.1. In the event that taxes and/or other fiscal charges on Storage Fees and fees according to the Storage Specification, including taxes or other fiscal charges on services forming the basis for such fees, have been introduced, abolished or modified, the Storage Service Provider shall increase or reduce the amount of the Storage Fee agreed in the Storage Specification accordingly, with effect from the date on which such taxes or other fiscal charges were imposed, abolished or changed. This shall also apply to any fees and charges introduced, abolished or modified by virtue of other national, European or international legal regulations, administrative acts or orders issued by any relevant authorities.
- 25.2. All Storage Fees and other fees according to the Storage Specification shall be exclusive of taxes. Such taxes, if any, shall be paid by the Storage Customer in addition to this fee.
- 25.3. The Storage Fee and other fees according to the Storage Specification to be paid and including any surcharges shall represent the fee in terms of the applicable Turnover Tax legislation and are exclusive of value added tax (VAT). Any statutory VAT, if any, shall be invoiced and be paid in accordance with applicable legislation by the Storage Customer in addition to the fee mentioned above.

## **26. Securities**

- 26.1. Upon request of the Storage Service Provider, the Storage Customer shall provide an irrevocable, unconditional and directly enforceable guarantee for an appropriate amount to be determined by the Storage Service Provider in order to secure the payments which are due according to the Storage Service Agreement. Said guarantee shall contain a waiver of the benefit of discussion (German: Einrede der Vorausklage) and further contain a waiver to offset a claim which guarantees payment on first demand (Credit Support). The guarantee shall be issued by either a bank assigned at least an A3 long-term rating by Moody's Investors Service, Inc. or an A- rating assigned by Standard & Poor's Rating Services, while the lower of the two ratings shall apply; or by a German bank belonging to the German savings sector or the association of societies. The guarantee may be issued for either a limited or unlimited period of time. Should the latter apply, the guarantee shall at least be valid until two (2) Months after the Last Utilization Day of the Storage Period as agreed in the Storage Service Agreement.





- 26.2. If the Storage Service Provider has not received a requested guarantee from the Storage Customer by the First Utilisation Day of the Storage Services agreed in the Storage Service Agreement, the Storage Service Provider shall be entitled to terminate the Storage Service Agreement with immediate effect pursuant to the provisions of Article 16 hereof.
- 26.3. The guarantee may be replaced by another financially equivalent type of security subject to examination and the prior written consent of the Storage Service Provider pursuant to the provisions of Article 26.1 hereof. The Storage Service Provider shall be entitled at its discretion to agree any other form of security provision with the Storage Customer in any individual Storage Service Agreement such as the provision of a bank-secured guarantee or the agreement of an appropriate advance payment.
- 26.4. The Storage Service Provider shall be entitled during the term of a Storage Service Agreement to request the Storage Customer to reasonably increase the security deposit amount. Upon termination of the Storage Services Agreement, the Storage Service Provider shall return the guarantee to the Storage Customer.

## **27. Insurance Coverage**

- 27.1. Prior to the conclusion of the Storage Service Agreement, the Storage Customer shall provide proof to the Storage Service Provider that it has contracted a liability insurance policy providing adequate coverage against the risks to be assumed by the Storage Customer pursuant to the provisions of the Storage Service Agreement. Should the liability insurance policy expire during the term of the Storage Service Agreement for whatever reason, the Storage Customer shall notify the Storage Service Provider accordingly in writing. In case the Storage Customer at any time during the term of the Storage Service Agreement is not able to prove a valid liability insurance, the Storage Service Provider shall be entitled to terminate the Storage Service Agreement without notice pursuant to the provisions of Article 16 hereof. In any event the Storage Customer shall notify the Storage Service Provider without undue delay in writing of any relevant changes to its liability insurance policy.
- 27.2. Liability insurance coverage shall be deemed adequate in terms of Article 27.1 sentence 1 if it provides adequate coverage against any risks to be assumed by the Storage Customer pursuant to the provisions of the Storage Service Agreement for the entire term of the Storage Service Agreement and



covers a minimum risk of not less than five million Euros (EUR 5,000,000.00). For the damage to be covered the generally recognized provisions for liability insurance of insurance companies approved by the Federal Financial Supervisory Authority to conduct business in the insurance sector, shall apply.

## **28. Force Majeure**

- 28.1. Either Contracting Party shall be released of its obligations under the Service Storage Agreement in the event and to the extent that the Contracting Party is unable to perform its obligations due to an event of Force Majeure. "Force Majeure" shall mean any external, unforeseeable event, which could not have been prevented completely or in due time by exercising appropriate care or by technical and economic measures that could have reasonably been expected to be taken. The occurrence of such event shall be beyond the reasonable control of the Contracting Parties claiming the occurrence of an event of Force Majeure. Events of Force Majeure shall include, inter alia: natural disasters, acts of terrorism, war and hostilities, strikes or any other labor dispute actions, fire, legal action or measures taken by governmental bodies regardless of whether the decisions taken are legitimate, incidents and events requiring urgent inspection/repair work, measures required to remove immediate danger.
- 28.2. A Party's inability to pay or lack of funds shall not be deemed to constitute an event of Force Majeure or a cause thereof. However, for the avoidance of doubt, to the extent an event of Force Majeure prevents the Storage Customer from making payments to the Storage Service Provider under this Agreement such event shall constitute an event of Force Majeure hereunder.
- 28.3. The Storage Service Provider shall particularly be entitled to reduce the Storage Services to the extent considered practicable and necessary due to Force Majeure. For the avoidance of doubt, no Storage Fee shall be payable in case and to the extent of such reduction.
- 28.4. Corresponding to the suspended obligations under the Storage Service Agreement of the Contracting Party claiming Force Majeure the other Contracting Party shall be suspended from its corresponding obligation(s) to the extent that the Contracting Party is prevented from fulfilling its contractual obligations due to Force Majeure.



- 28.5. The Contracting Party affected by Force Majeure shall notify the other Contracting Party in writing as soon as practicable after learning of the Force Majeure and provide to the other Contracting Party a non-binding estimate of the extent and expected duration of the requirement to suspend its obligations. The Contracting Party affected by Force Majeure shall use all commercially reasonable efforts to mitigate and overcome the effects of Force Majeure and shall, during the continuation of Force Majeure, provide the other Contracting Party with reasonable updates, when available, of the extent and expected duration of its inability to perform its obligations.
- 28.6. In the event and to the extent that a Contracting Party uses facilities owned by third parties in order to fulfill its contractual obligations, any circumstance or event constituting an event of Force Majeure pursuant to the provisions of Article 28.1 hereof shall be deemed as an event of Force Majeure for the benefit of this Contracting Party also pursuant to the provisions of the Storage Service Agreement.
- 28.7. Should the period of duration of any event of Force Majeure and its consequences exceed a period of two (2) Months, the Contracting Parties shall enter into negotiations with a view to reaching a mutually acceptable agreement on the further execution of the Storage Service Agreement. Termination of the Storage Service Agreement due to Force Majeure shall only be possible by mutual consent of the Contracting Parties.
- 28.8. Any payment obligation that may have been assumed pursuant to the provisions of any Storage Service Agreement until the event of Force Majeure shall be fulfilled despite of the occurrence of an event of Force Majeure.

## **29. Liability**

- 29.1. The Storage Service Provider shall be fully liable for any injury to life, limb or health caused by its fault or the fault of its vicarious agents and legal representatives due to willful intent or negligence.
- 29.2. The Storage Service Provider shall in principle be fully liable for any damage caused by the Storage Service Provider, its vicarious agents or legal representatives as a result of a breach of obligations due to willful intent or gross negligence.



In the event of a damage caused by slight negligence of the Storage Service Provider, its vicarious agents or legal representatives, the Storage Service Provider shall be fully liable only for damage caused as a result of a breach of any material contractual obligations which may jeopardize the achievement of the purpose of the Agreement (cardinal obligations) and limited to damages that are customary in that part of business.

Material contractual obligations (“Cardinal Obligations”) are those obligations required by the content and purpose of the contract and the fulfillment of which is a prerequisite to a proper execution of the contract and on the fulfillment of which the Storage Customer regularly relies and may reasonably rely on. Any other obligations are non-material contractual obligations.

- 29.3. The Storage Service Provider’s liability per event for the breach of Cardinal Obligations with slight negligence shall be limited to the typical (German: “vertragstypisch”) and reasonably foreseeable damages. Contracting Parties consider a loss per event of up to thirty percent (30%) of the respective Fixed Storage Fee (excluding Variable Storage Fee) payable by the Storage Customer for the provision of Storage Services contracted under this Agreement in view of any respective Storage Year as a typical and reasonably foreseeable damage.

Typical and reasonably foreseeable damages are damages that the Contracting Parties foresaw as possible consequences of a breach of contract or would have foreseen in consideration of the circumstances known or that would have been known to the Contracting Parties at that time if exercising due care.

- 29.4. The exclusions and limitations of liability pursuant to the aforementioned Articles 29.1-29.3 hereof shall also apply in the same way to the personal liability of the Storage Service Provider’s vicarious agents and legal representatives, servants or agent.
- 29.5. Any claims arising from the express assumption of guarantees and from strict liability shall not be affected by the aforementioned Articles 29.1-29.3.
- 29.6. Should any claim asserted by a third party against any Contracting Party result in liability for damages (liability of compensation) of Contracting Parties for each other, the Contracting Party incurring such damage shall be fully indemnified by the respective other Contracting Party who is in default



the liability of compensation shall be limited to the amount of compensation paid to the third party due to the direct damage caused to this third party.

- 29.7. Should any claim asserted by a third party against any Contracting Parties result in liability for damages (liability of compensation) of the Contracting Parties for each other, the liability of compensation shall be limited to the amount of compensation paid to the third party due to the direct damage caused to this third party.
- 29.8. In the event that the Storage Service Provider is liable according to Articles 29.2, 29.3, 29.6 and 29.7 vis-à-vis several (if more than one) Storage Customers for the same damaging event so that the overall amount of compensation exceeds in the respective Storage Year EUR 50.000.000 (fifty million) any claim of any single Storage Customer concerned shall be reduced by the ratio of the sum of the aforementioned liability cap.
- 29.9. The Storage Service Provider shall not be liable towards the Storage Customer in case the Storage Facility in part or in its totality in particular with regard to the caverns and infrastructure to be constructed is not available in time or to the extent as projected or never available due to the impossibility of its completion. The obligations of the Storage Service Provider resulting from the operation of certain caverns shall depend on the extent of the completion and availability of the Storage Facility as projected.

### **30. Data Disclosure and Processing**

- 30.1. The Storage Service Provider shall be entitled to disclose any consumer, dispatching and gas-account-related data to any Neighboring Network Operator provided that such disclosure shall be required to guarantee the proper execution of the Storage Service Agreement. The Storage Customer shall consent to the automatic data processing by the Storage Service Provider or any company so commissioned by the Storage Service Provider in compliance with the provisions of the Data Protection Acts, as amended.
- 30.2. Within the scope of the applicable provisions under the Data Protection Act (Datenschutzgesetz), the Storage Service Provider shall have the right to save and utilize the data received during the Registration and when using the Storage Portal to the extent that such data are required for the handling of the purposes of these Storage Access Conditions, e.g. registration, handling and processing of bookings through the Storage Portal.



## 31. Information Duties

- 31.1. The Storage Service Provider and the Storage Customer agree to provide the respective other Contracting Party with any information required for the execution of any Storage Service Agreement signed between the Contracting Parties and for the maintenance of the Storage Facility.
- 31.2. The Storage Customer agrees to notify the Storage Service Provider in writing prior to signing the Storage Service Agreement and in case of amendments during the term of the Storage Service Agreement of the status of the Natural Gas to be injected into the Storage Facility with regard to customs law.
- 31.3. As long as the Storage Customer does not inform the Storage Service Provider of the opposite the Storage Service Provider may assume that the services rendered under the Storage Service Agreement are deemed to be performed exclusively at the registered offices of the Storage Customer.

## 32. Confidentiality

- 32.1. The Contracting Parties agree to keep the contents of the Storage Service Agreement and any information obtained in connection with the implementation of the Storage Service Agreement (hereinafter referred to as "**Confidential Information**") strictly confidential subject to the provisions of Article 32.2 and Articles 30 and 31 hereof, and not to sell, trade, publish or otherwise disclose it to any third party without the prior written consent of the other Contracting Party in any manner whatsoever, including by means of photocopy or reproduction. Each Contracting Party shall use the same level of diligence to protect the secrecy of Confidential Information as it does to protect its own confidential or proprietary information. The Contracting Parties agree to use any Confidential Information exclusively for executing the Storage Service Agreement.
- 32.2. Each Contracting Party shall be entitled to disclose Confidential Information obtained from the other Contracting Party without the latter's written consent to:
- 32.2.1. an affiliated company pursuant to Article 15 of the German Stock Corporation Act (AktG) provided that this company has assumed the same confidentiality obligation, whereas any disclosure of





Confidential Information made by this affiliated company shall be deemed to be a disclosure made by the Contracting Party itself;

32.2.2. its representatives, consultants, agents, advisors, banks and insurance companies,

- Neighboring Network Operator;
- independent auditor; or
- any other person if required under applicable law

provided that the disclosure of Confidential Information shall be required for the proper fulfilment of obligations pursuant to the provisions of the Storage Service Agreement and in the case of the first intent that such persons or companies have previously agreed to keep the information confidential in a manner not less stringent than contained in this Article, or if such persons or companies are legally bound by statutory confidentiality requirements due to their profession whereas any disclosure of Confidential Information made by an agent, advisor or consultant of the Contracting Party shall be deemed to be a disclosure made by the Contracting Party itself, or

32.2.3. to the extent that the Confidential Information

- has legitimately already been known to the other Contracting Party at the time it received said Confidential Information and was not subject to any confidentiality obligation;
- is generally available in the public domain at the time of its disclosure;
- becomes generally available in the public domain at any time after its disclosure other than through an act or omission by the Contracting Party that has received such information;
- is disclosed to the other Contracting Party by a third party without imposing confidentiality restrictions on that Contracting Party, provided that the third party has the unrestricted right to so disclose the information to that Contracting Party;
- is set out in these Storage Access Conditions (including its Annexes); or shall be disclosed by either Contracting Party by virtue of any law or any order issued by any court, tribunal or arbitral forum or any national or European authority; in this event the Contracting Party disclosing the Confidential Information



shall notify the other Contracting Party accordingly without undue delay.

32.3. The confidentiality obligation shall end five (5) Years after the termination of the respective Storage Service Agreement.

### **33. Assignment of Rights and Obligations**

33.1. Each Contracting Party shall be entitled to assign, wholly or partly, its rights and obligations under the respective Storage Service Agreement to a third party subject to the prior written consent of the other Contracting Party. A partial assignment does not apply to the partial assignment of Bundled Products.

33.2. Such consent may not to be unreasonably withheld by either Contracting Party. Consent shall be given if the Contracting Party which shall give consent holds the view that there are no technical, financial or safety-related doubts about the proper execution of the Storage Service Agreement by the third party. The assignment of a Storage Service Agreement shall be with effect from 06:00 hours on the first Gas Day of a Month. The assigning Contracting Party and the third party shall notify the proposed assignment each sending written notices by no later than one (1) Month before the proposed effective date of the assignment. In the event the Storage Customer acts as assignor the Storage Service Provider shall be entitled to request from the third-party to fulfill the obligations of Article 6 hereof and the third-party shall fulfill such obligations for being regarded as Qualified Storage Customer. Any transfer of a Storage Agreement may be rejected by the Storage Service Provider if the proposed third party transferee may not be regarded as Qualified Storage Customer.

33.3. A transfer of rights and obligations pursuant to the provisions of the Storage Service Agreement from the Storage Service Provider to its affiliated company, according to Article 15 of the German Stock Corporation Act (AktG), shall not be subject to the prior written agreement of the Storage Customer, provided that the such affiliated company may guarantee for the proper performance of the obligations so assigned.

### **34. Severability and Changed Circumstances**



- 34.1. Should a provision of the Storage Service Agreement (including its Annexes) or any other related documents be or become invalid or unenforceable, the validity of the remaining provisions of the Storage Service Agreement (including its Annexes) or any other related documents shall not be affected thereby. In such case, the Contracting Parties agree to replace the invalid or unenforceable provision by a legally valid provision that as closely as possible reflect the economic purpose and spirit of the invalid or unenforceable provision. Such replacement shall be applicable with effect from the date of invalidity or unenforceability of the invalid or unenforceable provision. This shall apply analogously if the Storage Service Agreement (including its Annexes) or any other related document is incomplete.
- 34.2. Should any unforeseeable circumstances arise during the term of the Storage Service Agreement (including its Annexes) with a considerable economic, technical or legal impact on this Storage Service Agreement, which is not covered by the provisions the Storage Service Agreement (including its Annexes), or which have not been taken into account at the conclusion of the Storage Service Agreement, and should any of the provisions therefore become unacceptable to either Contracting Party, the Contracting Party concerned shall be entitled to request the other Contracting Party to adjust the provisions accordingly taking into account any economic, technical and legal impact on the other Contracting Party. The Contracting Party claiming the occurrence of such circumstances shall submit and prove any facts related thereto. Same applies to unintentional omissions in the Storage Service Agreement (including its Annexes).
- 34.3. The claim to modify the provisions shall have arisen at the moment when the Contracting Party concerned requests the provisions to be modified due to a change of circumstances, unless the entitlement to claim could reasonably be expected from the Contracting Party concerned at an earlier stage.

## **35. Arbitration and Applicable Law**

- 35.1. Any Storage Service Agreement shall be governed by German law. Unless otherwise provided for in a Storage Service Agreement, the Contracting Parties shall use their best efforts to reach an amicable settlement of any dispute arising from or in connection with any Storage Service Agreement including disputes concerning the validity, content and interpretation of the



Storage Service Agreement and this arbitration clause. Should the Contracting Parties, contrary to expectation, fail to reach an amicable settlement, such dispute shall be – to the exclusion of the ordinary courts – finally settled by a court of arbitration in accordance with the Rules of Arbitration of the German Institution of Arbitration (Schiedsgerichtsordnung der Deutschen Institution für Schiedsgerichtsbarkeit e.V.). The place of arbitration shall be Berlin, Germany. The language of such arbitration proceedings shall be English.

- 35.2. The arbitration proceedings shall be conducted by three (3) arbitrators with one of them acting as Chairman. The court of arbitration shall be formed at the moment when the Contracting Party that has initiated arbitration proceedings by explaining the matter in dispute appoints an arbitrator and requests the other Contracting Party to appoint the second arbitrator, whereupon the two arbitrators so appointed shall appoint a Chairman. Should either Contracting Party fail to appoint an arbitrator within four (4) weeks, the Counterparty that has initiated the arbitration proceedings may approach the President of the competent court and request him to appoint the second arbitrator. Should the arbitrators fail to appoint a Chairman within four (4) weeks, either Contracting Party may request the President of the competent court to appoint a Chairman. The appointment of the Chairman shall be binding upon the Contracting Parties in any of the aforementioned cases. The “competent court” within the meaning of this Article 35.2 hereof shall be the Chamber Court (Kammergericht) of Berlin.
- 35.3. The Contracting Parties agree to fulfil any obligations imposed on them by the arbitration award in the terms stated therein.

## **36. Miscellaneous**

- 36.1. The Storage Service Agreement is drawn up in English. Any document relating to a Storage Service Agreement shall be in English.
- 36.2. These Storage Access Conditions (as Annex 1 of the Storage Service Agreement), the Operating Agreement (Annex 2 of the Storage Service Agreement) and the Storage Specification (Annex 3 of the Storage Service Agreement) respectively as amended shall form an integral part of the Storage Service Agreement.
- 36.3. Unless provided otherwise in these Storage Access Conditions any amendment to or termination of a Storage Service Agreement (including its



Annexes) shall become effective only in writing and shall be signed by the authorized representatives of the Parties. This shall also apply to the waiver of adhering to the written-form requirement.

- 36.4. Any notices, declarations, applications or notifications submitted by one Contracting Party to the other Contracting Party shall comply with the applicable laws and the relevant generally accepted rules of the gas industry.
- 36.5. Any notices, declarations, applications or notifications from the Storage Customer to the Storage Service Provider shall be sent to the address specified at the Storage Portal.
- 36.6. Any notices, declarations, applications or notifications from the Storage Service Provider to the Storage Customer shall be sent to the address specified in the Storage Service Agreement.
- 36.7. Any notices, declarations, applications or notifications between Contracting Parties shall be in English.
- 36.8. Any Storage Service Agreement shall be executed in duplicate, one copy for each Contracting Party.