

**General Terms and Conditions for Storage Services
(GTCSS)**

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- hereinafter referred to as "**EGD**" -

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§ 1 Definitions, Annexes and Interpretation

(1) Definitions

1. **“Affiliate”** shall mean any company or legal entity which is affiliated to either Party in the meaning of sec. 15 German Stock Corporation Act (*Aktiengesetz*, AktG).
2. **“Auction”** shall mean the procedure for the awarding of storage capacities as referred to in § 2 A subsec. (1).
3. **“Auction Announcement”** shall have the meaning ascribed to it in § 2 A subsec. (1).
4. **“Auction Portal”** shall mean the storage auction portal accessible via the Website once an Auction Announcement has been made by EGD.
5. **“Availability Report”** shall have the meaning ascribed to it in § 5 subsec. (2).
6. **“Available Storage Services”** shall have the meaning ascribed to it in § 2 subsec. (1).
7. **“Binding Storage Service Request”** shall have the meaning ascribed to it in § 2 subsec. (2).
8. **“BNetzA”** shall mean the German Federal Network Agency (*Bundesnetzagentur*).
9. **“Bundled Storage Capacities”** shall mean the Storage Capacities which have been combined to form a storage bundle.
10. **“Contract Term”** shall mean the period of time for which the Storage Customer has booked Storage Capacities in the Storage Facility pursuant to the underlying Storage Contract with EGD. Where the Storage Contract is terminated pursuant to § 23, the thereby reduced term shall then be considered the Contract Term.
11. **“Customers”** shall mean the totality of those natural persons and legal entities who/which at a certain point in time have booked storage capacities in the Storage Facility.
12. **“Day”** shall mean the gas day, that is to say the period from 6.00 a.m. on one day to 6.00 a.m. on the next following day.
13. **“EGD-Customers”** shall mean the totality of those natural persons and legal entities who/which at a certain point in time have each concluded a storage contract with EGD for the provision of storage capacities in the Storage Facility.
14. **“EnWG”** means the German Energy Act (*Energiewirtschaftsgesetz*) as amended from time to time.

15. **"Fees"** shall mean all fees payable by the Storage Customer as provided for in Annex III to these GTCSS and as referred to in § 2 of the main body of the Storage Contract.
16. **"Force Majeure"** shall have the meaning ascribed to it in § 18.
17. **"GTCSS"** shall mean these *General Terms and Conditions for Storage Services*.
18. **"Hour"** shall mean a period starting on the hour and ending a full 60 minutes later.
19. **"Incompliant Nomination"** shall have the meaning ascribed to it in § 5 subsec. (5).
20. **"Individual Filling Level"** shall mean the ratio (expressed in %) between (a) the Working Gas (in kWh) actually stored in the Storage Facility by the Storage Customer) and (b) the Storage Customer's contracted Working Gas Capacity in kWh.
21. **"Injected Quantities"** shall mean the quantities of Natural Gas injected into the Storage Facility for the Storage Customer as allocated by the Network Operator and/or EGD (and/or an authorised third party designated by EGD) at the fiscal meter of the Storage Facility being installed at the metering station in Etzel and allocatable to the Storage Customer.
22. **"Injection Rate"** shall mean the maximum Natural Gas quantity per Hour in kWh/h which EGD can make available to the Storage Customer according to the Storage Contract taking into account the Technical Specifications in Annex I to these GTCSS and with which the Storage Customer may inject Natural Gas at the Take Over Point.
23. **"Interruption"** shall have the meaning ascribed to it in § 13 subsec. (1).
24. **"Interruptible Storage Capacities"** shall mean storage capacities which are available to EGD Customers and which can be interrupted by EGD as further specified in the Technical Specifications in Annex I to these GTCSS.
25. **"Kilowatt hour" ("kWh")** shall mean after conversion three-point-six (3.6) Megajoules, 1 Megajoule ("MJ") after conversion being one million (10^6) Joules according to the derived SI Unit of Quantity of Heat – contained in ISO 1000 (SI Units and Recommendations For Use Of Their Multiple And Of Certain Other Units).
26. **"Maintenance Notice"** shall have the meaning ascribed to it in § 12 (1).
27. **"Malus"** shall mean the reduction of Storage Customer's payment obligation to pay the full Storage fee, in case the firm Storage Capacities contracted by the Storage Customer are restricted or suspended as further specified in § 13 subsec. (3) and subsec. (4).

28. **“Natural Gas”** shall mean any hydrocarbon or a mixture of hydrocarbons consisting principally of methane, other hydrocarbons and non-combustible gases, all of which are substantially in the gaseous phase at a pressure of one thousand thirteen decimal point two five (1,013.25) millibar absolute and at a temperature of fifteen (15) degree Celsius. All Natural Gas quantities are measured in units of kWh.
29. **“Network Operator”** shall mean the operator of the adjacent gas transmission grid to which the Storage Facility is connected via a Take Over and Return Point as specified in the Technical Specifications in Annex I to these GTCSS.
30. **“Nominated Injection Quantities”** shall have the meaning ascribed to it in § 4 subsec. (2).
31. **“Nominated Withdrawal Quantities”** shall have the meaning ascribed to it in § 4 subsec. (2).
32. **“Nomination(s)”** shall have the meaning ascribed to it in § 5 subsec. (3).
33. **“Objection Notice”** shall have the meaning ascribed to it in § 11 subsec. (3).
34. **“Outages”** shall have the meaning ascribed to it in § 13 subsec. (2).
35. **“Party”** shall mean the Storage Customer or EGD, and **“Parties”** shall mean the Storage Customer and EGD, each as contractual partner under a specific Storage Contract.
36. **“Planned Maintenance”** shall have the meaning ascribed to it in § 12 subsec. (1).
37. **“Planned Maintenance Days”** shall have the meaning ascribed to it in § 12 subsec. (1).
38. **“Reasonable and Prudent Operator”** or **“RPO”** shall mean a person acting in good faith with the intention of executing its contractual obligations and who, in order to do this, employs the skills, application, prudence and foresight which are reasonable and usually employed by a competent and experienced operator acting in accordance with the laws and regulations in similar circumstances and conditions.
39. **“Reference Price”** shall mean the average of the day ahead gas prices on TTF observed over a certain period as published by ICIS Heren Spot Gas Market under Continental Assessment.
40. **“Relevant Date”** means the applicable dates set out in sec. 35b (1) EnWG as may be amended from time to time.
41. **“Re-nomination”** shall have the meaning ascribed to it in § 5 subsec. (4).

42. **“Required Individual Filling Level”** shall mean the relevant percentage pursuant to sec. 35 b (1) EnWG in connection with § 11 A subsec. (2) herein-below.
43. **“Return Point”** shall mean the physical connection of the Storage Facility to the gas transmission grid of the Network Operator as further specified in the Technical Specifications in Annex I to these GTCSS at which Natural Gas can be transferred from the Storage Facility to the Network Operator (entry point); see also definition of “Take Over Point”.
44. **“Request Form”** has the meaning ascribed to it in § 2 subsec. (4).
45. **“Restriction Report”** shall have the meaning ascribed to it in § 5 subsec. (2).
46. **“Schedule of Planned Maintenance”** shall have the meaning ascribed to it in § 12 subsec. (1).
47. **“Special Losses”** shall mean those Natural Gas quantities which are lost in the Storage Facility as a result of Force Majeure events according to § 18.
48. **“Storage Bundle”** shall mean the combination of Working Gas Capacity with Injection Rate and Withdrawal Rate in a fixed ratio to one another whereby this ratio may vary from storage product to storage product.
49. **“Storage Capacities”** shall mean the Withdrawal Rate and/or Injection Rate and/or Working Gas Capacity as booked by the Storage Customer under the Storage Contract; it shall mean both firm and interruptible capacities/rates alike.
50. **“Storage Contract”** shall mean a contract entered into between a Storage Customer and EGD for the provision of Storage Capacities in the Storage Facility, whereby the GTCSS form part of the Storage Contract.
51. **“Storage-Contract-Form”** shall mean the sample of a Storage Contract which is meant to be entered into between a Storage Customer and EGD for the provision of Storage Capacities in the Storage Facility.
52. **“Storage Customer”** shall mean that specific individual or legal entity which is named Storage Customer on the front page of the Storage Contract, unless nothing to the contrary derives from these GTCSS or where the context requires differently.
53. **“Storage Facility”** shall mean one or a totality of multiple underground caverns which are spatially directly connected to one another, including the related above ground facilities (such as the gas plant and the compressors), storage pipes and other technical facilities, which are connected to a gas transmission grid by a common Take Over and Return Point as further specified in the Storage Contract.

54. **“Storage Month”** shall mean the period from 6.00 a.m. on the first day of one calendar month to 6.00 a.m. on the first day of the following calendar month.
55. **“Storage Period”** shall mean the period for which a potential Storage Customer seeks to book Storage Capacities under a Binding Storage Service Request. Upon conclusion of the Storage Contract based on the respective Binding Storage Service Request, the Storage Period becomes the Contract Term.
56. **“Storage Year”** shall mean the period from 6.00 a.m. on 1st April of one calendar year to 6.00 a.m. on 1st April of the following calendar year.
57. **“System Service Fee”** shall mean the fee for the provision of system services by EGD in connection with the performance of the Storage Contract as further specified in Annex III to these GTCSS.
58. **“Take Over Point”** shall mean the physical connection of the Storage Facility to the gas transmission grid of the Network Operator as further specified in the Technical Specifications in Annex I to these GTCSS at which Natural Gas can be withdrawn from the gas transmission network for the purpose of storage (exit point); see also definition of “Return Point”.
59. **“Transfer”** shall have the meaning ascribed to it in § 10 subsec. (2).
60. **“Transfer-of-Use”** shall have the meaning ascribed to it in § 10 subsec. (1).
61. **“Transfer Request”** shall have the meaning ascribed to it in § 10 subsec. (2).
62. **“TTF”** shall mean the virtual market place ‘Title Transfer Facility’ in the Dutch gas network of Gas Transport Services B.V.
63. **“Unbundled Storage Capacities”** shall mean the three components Working Gas Capacity, Injection Rate and Withdrawal Rate in so far as they are not combined in a fixed ratio as a Storage Bundle.
64. **“Unused Capacity”** shall mean that part of the (firm) Working Gas Capacity (in kWh) which the Storage Customer is not using by means of having stored Working Gas in the Storage Facility as per a certain date.
65. **“Website”** shall mean EGD’s website: **“www.edf-gas-deutschland.de”**.
66. **“Withdrawal Rate”** shall mean the maximum Natural Gas quantity per hour in kWh/h which EGD can make available to the Storage Customer according to the Storage Contract taking into account the Technical Specifications in Annex I to these GTCSS and with which the Storage Customer may withdraw Working Gas at the Return Point.

67. **“Withdrawn Quantities”** shall mean the quantities of Natural Gas withdrawn from the Storage Facility for the Storage Customer as allocated by the Network Operator and/or EGD (and/or an authorised third party designated by EGD) at the fiscal meter of the Storage Facility being installed at the metering station in Etzel and allocatable to the Storage Customer.
68. **“Working Day”** for the purpose of these GTCSS shall mean any day of the week from Monday to Friday except the statutory holidays in Lower Saxony, Germany.
69. **“Working Gas”** shall mean the quantity of Natural Gas in kWh owned by the Storage Customer, which is the sum of the Natural Gas quantities that are injected into the Storage Facility and the Natural Gas quantities which are transferred to the Storage Customer according to § 6 (3) less the sum of the Natural Gas quantities that are withdrawn from the Storage Facility, the Natural Gas quantities transferred by the Storage Customer to other Customers according to § 6 subsec. (3) and the Special Losses to be borne by the Storage Customer according to § 6 subsec. (3).
70. **“Working Gas Account”** shall have the meaning ascribed to it in § 6 subsec. (1).
71. **“Working Gas Capacity”**: shall mean the maximum Working Gas quantity in kWh which the Storage Customer in total is entitled to hold pursuant to the Storage Contract.

(2) Annexes

Annex I (Technical Specifications), Annex II (Rules for Nomination) and Annex III (Products and Fees) are integral parts of these GTCSS and upon conclusion of a Storage Contract become part of this Storage Contract.

(3) Interpretation

Reference to a calendar day (such as 1st April) or to a day of a week (such as Sunday) is to the Day which begins at 6:00 hours on that calendar day and lasts until 6:00 hours of the next calendar day. Reference to a calendar month is to the period from 6:00 hours on the first (1st) day of a month until 6:00 hours on the first (1st) day of the next month.

References to times of a day (e.g. 6:00 hours) or periods of a day (e.g. from 0:00 to 24:00 hours) refer to German time and are given in 24 hour format.

Unless the context otherwise requires, words in the singular may be interpreted as including the plural and vice versa. A reference to a person shall include a reference to a company, corporation or body corporate. A reference to one gender shall include a reference to the other gender. A derivative term of a defined term shall be construed in accordance with the relevant definition.

Terms applied in relation to the Storage Customer in these GTCSS shall have the equivalent meanings when applied in these GTCSS in relation to other Customers; for example, the reference to “working gas” of a Customer other than the Storage Customer shall mean the quantity of Natural Gas in kWh owned by such Customer, which is the sum of the Natural Gas quantities that are injected for the Customer into the Storage Facility and the Natural Gas quantities which are transferred to such Customer less the sum of the Natural Gas quantities that are withdrawn for this Customer from the Storage Facility, the Natural Gas quantities transferred by such Customer to other Customers and the Special Losses to be borne by such Customer.

§ 2 Conclusion of Storage Contract

- (1) EGD publishes available storage capacities on its Website (www.edf-gas-deutschland.de), identifying the Storage Facility where the storage capacities are available and the available storage products based on the Technical Specifications of the Storage Facility in Annex I (together “**Available Storage Services**”).
- (2) Prerequisite for being granted access to the Storage Facility is the conclusion of a storage contract. A storage contract is entered into by means of EGD accepting a binding offer made by a potential Storage Customer pursuant to the provisions of this § 2 or, as the case may be, § 2A.

Thus, in case a potential Storage Customer is interested in storage capacities it shall make a binding offer towards EGD to book storage capacities as further detailed in subsec. (3) and subsec. (4) (“**Binding Storage Service Request**”), unless EGD has decided to award storage capacities by means of an Auction pursuant to § 2 A and made an Auction Announcement.

In case of such an Auction Announcement, potential Storage Customers who are interested in storage capacities, shall participate in the Auction as further detailed in § 2A for making a binding offer; in case of an Auction, the provisions in § 2 subsec. (3) – (10) shall not apply unless otherwise provided for in § 2 A or the Auction Announcement.

- (3) A Binding Storage Service Request shall contain the following elements:
 - a) details concerning the potential Storage Customer (name, legal form, address, registered business office and a contact person including his/her contact details); and
 - b) the requested Storage Facility; and
 - c) the requested Storage Period; and
 - d) the requested storage products out of the Available Storage Services; and
 - e) the requested Bundled Storage Capacities; and/or
 - f) the requested Unbundled Storage Capacities comprising:

- Injection Rates in kWh/h,
- Withdrawal Rates in kWh/h and/or
- Working Gas Capacity in million kWh.

The potential Storage Customer is free to also provide EGD with the information which is required for the solvency assessment of the potential Storage Customer pursuant to § 17. In any case, the potential Storage Customer shall demonstrate the solvency or, as the case may be, provide security by the dates referred to in § 17 subsec. (4).

- (4) The Binding Storage Service Request shall be filed through the form “Binding Storage Service Request” (“**Request Form**”) provided by EGD on its Website (download area). The potential Storage Customer shall send the duly signed Request Form to EGD either by fax to the fax number set out in the Request Form or by e-mail as a scan to the EGD e-mail address set out in the Request Form. Any other form or modes of sending or communicating a Request Form (for example by telephone, regular mail or courier) shall not be considered a Binding Storage Service Request and shall thus not be considered by EGD in the allocation process provided for in subsec. (7).

Should the Website be unavailable for whatever reason, the potential Storage Customer may contact EGD via e-mail under the following e-mail address: ***olivier.deterne@edf-gas-deutschland.de*** and request the sending of a Request Form. EGD shall then send the Request Form by e-mail to the requesting potential Storage Customer.

- (5) In case a filled out Request Form is incomplete or incorrect by deviating from the requirements for a Binding Storage Service Request as provided for under subsec. (3) and subsec. (4) above, it is not considered a Binding Storage Service Request in the meaning of this § 2 and EGD will inform the requesting potential Storage Customer within three (3) Working Days after receipt of the incomplete or incorrect request about any missing and/or incorrect information that is necessary to be completed / corrected in order to process the request. The potential Storage Customer shall provide the missing / corrected information by fax or e-mail as provided for in subsec. (4) above within three (3) Working Days after it had been informed by EGD about the incompleteness / defectiveness. Only upon receipt of the missing / corrected information in due time, EGD will apply the allocation procedure provided for in subsec. (7). For the purpose of this procedure set out under subsec. (7), only the day and time of that day when EGD has received the last missing / corrected information is considered the relevant point in time when the respective Binding Storage Service Request has been received by EGD.

In case a filled out Request Form is complete, however the requesting potential Storage Customer has made the request subject to a condition shall not be considered a Binding Storage Service Request and shall thus not be considered by EGD in the process provided for in subsec. (7).

- (6) The Binding Storage Service Request shall be binding upon the requesting potential Storage Customer. It shall remain valid until it has been accepted or rejected by EGD according to the terms of this § 2. In case the Binding Storage Service Request is not accepted or rejected by EGD within twenty (20) Working Days after EGD has received it, the requesting party shall be entitled to withdraw from its Binding Storage Service Request. The withdrawal shall be made either by fax or e-mail as provided for under subsec. (4) or in writing.
- (7) After receipt of a Binding Storage Service Request, EGD shall examine and determine whether the requested Storage Capacities are still available. EGD shall act as an RPO and in a non-discriminatory manner.

EGD shall process the Binding Storage Service Request in chronological order of receipt ("*first committed – first served*").

EGD is preferably interested in a full and consistent utilisation of the Available Storage Services. The following allocation rules apply to Binding Storage Service Requests in case they are received at the same time:

1. longer term Binding Storage Service Requests have priority over shorter term Binding Storage Service Requests;
2. Binding Storage Service Requests for Bundled Storage Capacities have priority over Binding Storage Service Requests for Unbundled Storage Capacities;
3. Binding Storage Service Requests for firm capacity have priority over Binding Storage Service Requests for interruptible capacity.

In addition, potential Storage Customers who have made Binding Storage Service Requests for firm capacity and wish to book interruptible capacity shall have priority over potential Storage Customers who make Binding Storage Service Requests for interruptible capacity only.

- (8) EGD shall respond to a Binding Storage Service Request within ten (10) Working Days.

Based on the application of the allocation rules pursuant to subsec. (7) above, EGD accepts Binding Storage Service Requests. Acceptance takes place by means of EGD completing the Storage-Contract-Form in accordance with the respective Binding Storage Service Request, signing it in two (2) copies and returning the duly signed copies to the Storage Customer by registered letter with acknowledgment of receipt. Upon receipt thereof by the Storage Customer, the Storage Contract is concluded.

Irrespective thereof, the Storage Customer shall within ten (10) Working Days following

receipt countersign the Storage Contract and shall send one duly signed copy to EGD by registered letter with acknowledgment of receipt. For the avoidance of doubt, this countersignature is a mere declaratory act.

In case Binding Storage Service Requests are rejected by EGD based on the application of the allocation rules pursuant to subsec. (7) above, EGD shall inform the affected parties accordingly (Notice of Rejection) and indicate the then available storage services, if any.

- (9) Notwithstanding the above, the conclusion of a Storage Contract shall be accomplished at least ten (10) Working Days prior to the commencement of the Storage Period to ensure the proper operational processing of the Storage Contract. The factual execution of the Storage Contract and the Storage Customer's obligation to pay the Fees commence at the same point in time as the agreed Storage Period. If at the time of a Binding Storage Service Request which EGD intends to accept based on the application of the allocation rules pursuant to subsec. (7) above, the requesting party is already an EGD-Customer, the conclusion of a Storage Contract shall be accomplished five (5) Working Days prior to the commencement of the Storage Period at the latest.
- (10) If the Storage Customer is obliged to provide towards EGD the existence of a security pursuant to § 17 subsec. (4) et seqq., the security has to be provided within ten (10) Working Days after the conclusion of the Storage Contract. In case the Storage Customer does not provide the required security within ten (10) Working Days, EGD is entitled to rescind the Storage Contract. EGD may probably exercise this right to rescission in particular if further Binding Storage Service Request(s) for the respective Storage Capacities exists which EGD has not considered yet. The Storage Capacities which have become available due to a rescission will be granted to the next potential Storage Customer whose Binding Storage Service Request has not been considered pursuant to the criteria of subsec. (7).

§ 2 A Auction for the awarding of storage capacities

- (1) EGD retains the right to – in deviation of the provisions set out in § 2 subsec. (3) – (10) - award Available Storage Services by means of an auction. When EGD has decided to award storage capacities by means of an auction, it will publish this fact as well as the terms and conditions for such an auction on its Website ("**Auction Announcement**").

The entire auction process as provided for in this § 2 A is referred to as "**Auction**".

- (2) EGD will make any Auction Announcement in due time prior to the start of the actual Auction process. The Auction Announcement will for example contain information about

the Available Storage Services and, as the case may be, their split into lots, the possible storage duration, the Auction procedure and storage fee elements.

- (3) Any bid submitted in accordance with the Auction Announcement is a binding offer towards EGD to enter into a Storage Contract.
- (4) EGD is entitled to but not obliged to accept one or more of the binding offers pursuant to subsec. (3) above. An acceptance will be communicated towards the successful bidder by e-mail without undue delay. For documentation purposes the Storage Contract thus concluded in case of acceptance will then be put into writing (sec. 126 BGB or sec. 126a BGB) by EGD and the Storage Customer.
- (5) § 2 subsec. (1) last para, § 2 subsec. (3) last para (regarding the solvency assessment of the potential Storage Customer pursuant to § 17) as well as § 2 subsec. (10) apply accordingly.

§ 3 System Services

EGD renders system services for the performance of the storage. This includes the implementation of the Storage Customer in the EGD IT systems, the receipt and verification of nominations, the conducting of a Working Gas Account and the monthly invoicing. A System Service Fee shall be payable by the Storage Customer in accordance with Annex III to these GTCSS.

§ 4 Take Over and Return of the Natural Gas

- (1) The delivery point for the Natural Gas quantities which are meant to be injected into the Storage Facility is the Take Over Point, and the delivery point for Natural Gas quantities which are meant to be withdrawn from the Storage Facility is the Return Point, both as further detailed in the Technical Specifications in Annex I to these GTCSS.
- (2) EGD is obliged to take over and inject into the Storage Facility the Natural Gas quantities which the Storage Customer has nominated for injection pursuant to and in accordance with the provisions in § 5 ("**Nominated Injection Quantities**") and which the Storage Customer makes available accordingly at the Take Over Point for injection.

EGD is furthermore obliged to return to the Storage Customer at the Return Point after withdrawal the Natural Gas quantities which the Storage Customer has nominated pursuant to and in accordance with the provisions in § 5 ("**Nominated Withdrawal Quantities**"). EGD is not obliged to ensure the physical identity of the Natural Gas (no identity of molecules).

- (3) The Storage Customer is obliged to make available the Nominated Injection Quantities at the Take Over Point (which EGD is obliged to take over pursuant to subsec. (2) sent. 1) and to take back the Nominated Withdrawal Quantities at the Return Point which are to be returned by EGD pursuant to subsec. (2) sent. 2.
- (4) EGD shall take over and store the Natural Gas quantities which it takes over for injection at the Take Over Point pursuant to subsec. (2) together with and unseparated from other Natural Gas quantities. The Natural Gas to be stored becomes - for the duration of the storage - the joint ownership of the Storage Customer and other Customers who also have stored working gas in the Storage Facility.

Accordingly, EGD shall return the Natural Gas quantities which are to be returned to the Storage Customer at the Return Point pursuant to subsec. (2) together with and unseparated from other Natural Gas quantities. EGD is not obliged to ensure the physical identity of the Natural Gas upon return (no identity of molecules).

§ 5 Nominations, Transport Nominations and Matching

- (1) The Storage Customer is entitled to nominate with EGD the Natural Gas quantities which are meant to be injected or withdrawn into/from the Storage Facility in which case the nominations shall be made pursuant to and in accordance with the provisions of this § 5.
- (2) EGD shall send to the Storage Customer on a day-ahead basis an availability report of the actually available Storage Capacities ("**Availability Report**"). Changes to the Availability Report will be communicated to the Storage Customer by a new Availability Report or a restriction report ("**Restriction Report**").
- (3) Within the limits provided for in the Availability Report (and in any case within the limits of the Storage Capacities) and in accordance with Annex II to these GTCSS the Storage Customer is entitled to nominate with EGD the Natural Gas quantities which it wants EGD to take-over and store or which it wants EGD to withdraw and return to it ("**Nomination(s)**"). The Storage Customer is obliged not to exceed the Injection and Withdrawal Rate and the Working Gas Capacity by making Nominations.
- (4) The Storage Customer is entitled to modify a Nomination ("**Re-nomination**") under the conditions set forth in Annex II to these GTCSS. In case of a Re-nomination such Re-nomination shall supersede the previous Nomination. The provisions of this § 5 apply accordingly to the Re-nomination.
- (5) In case a nomination of the Storage Customer is not in compliance with the requirements under subsec. (3) above ("**Incompliant Nomination**"), EGD will reject the Storage Customer's Incompliant Nomination and will immediately notify the Storage Customer about any rejection.

- (6) The Storage Customer is responsible for and shall make the necessary (transport) nominations with the Network Operator in accordance with the rules of the Network Operator. A copy of any such nomination with the Network Operator shall be sent to EGD. The Storage Customer's nominations with the Network Operator for any particular Hour shall correspond to the Storage Customer's Nomination with EGD for the same respective Hour.
- (7) After having received a Nomination, EGD shall liaise with the Network Operator as to whether this Nomination corresponds to the respective nomination of the Storage Customer with the Network Operator (first matching procedure). In case the matching procedure reveals that a Storage Customer's nomination with the Network Operator for a particular Hour does not correspond to the Storage Customer's Nomination with EGD for the same Hour (*mismatch*), EGD shall immediately inform the Storage Customer accordingly.
- (8) Upon receipt of this information about a mismatch, the Storage Customer is entitled to make a Re-nomination to eliminate the mismatch. If there is a timely Re-nomination, the verification procedure pursuant to subsec. (7) is to be carried out again (second matching procedure). If there is no timely Re-nomination (either after the first or, as the case may be, the second verification procedure) eliminating the mismatch, the "lesser-rule" applies, i.e. EGD is entitled to adjust the initial Nomination to equal the Storage Customer's respective nomination with the Network Operator. If, however, the Storage Customer's respective nomination with the Network Operator provides for higher quantities than the Nomination, the initial Nomination shall not be adjusted by EGD. EGD shall inform the Storage Customer accordingly.

The procedure described in this subsection is referred to as the "nomination adjustment procedure".

- (9) Details of the matching procedure as referred to under subsec. (7) above and the nomination adjustment procedure pursuant to subsec. (8) are set out in Annex II to these GTCSS, including the timing for timely Re-nominations and information.

§ 6 Working Gas Account and transfer of Working Gas

- (1) EGD keeps a Working Gas account (“**Working Gas Account**”) for the Storage Customer. The Working Gas Account is kept in kWh.
- (2) The Injected Quantities shall be credited to the Working Gas Account of the Storage Customer.
- (3) The Withdrawn Quantities shall be debited from the Working Gas Account of the Storage Customer. The Working Gas Account of the Storage Customer shall also be debited with the proportion of the Special Losses that corresponds to the ratio of the Working Gas of the Storage Customer stored in the Storage Facility at the time of a Force Majeure event and the working gas of all other Customers being in store in the Storage Facility at the said time. The burden of proof with respect to the amount of the Special Losses as well as of the respective (W)working (G)gas shall be on EGD.

Where Customers (including the Storage Customer) have booked working gas capacity in the Storage Facility and if demanded by those Customers, working gas of one Customer can be transferred from its working gas account to the working gas account of the other Customer. The transferring Customer as well as the receiving Customer shall make either a joint notification or corresponding notifications about the transfer and the transferred Natural Gas quantities to EGD by means of e-mail or fax to the e-mail address/fax number provided for under § 2 subsec. (4). Such a transfer between working gas accounts does not constitute an injection of Natural Gas, so that no Fee shall be charged.

However, when the Storage Customer transfers Working Gas from its Working Gas Account to the working gas account of another Customer or when the Storage Customer is transferred working gas on its Working Gas Account from another Customer, the Storage Customer shall pay to EGD a lump sum handling fee of EUR 500 (in words: five hundred Euros) per any such transaction.

- (4) By the 10th calendar day of a month or, in case the 10th calendar day is not a Working Day, by the next following Working Day, EGD will provide the Storage Customer with the status of the Working Gas Account as per the end of the preceding month, including a statement of the Injected Quantities, the Withdrawn Quantities and/or the Natural Gas quantities transferred during the previous month), and an aggregate statement of the Injected Quantities, the Withdrawn Quantities and/or the Natural Gas quantities transferred to the Working Gas Account for the previous month.
- (5) For operational reasons, a control tolerance of 0.05 % applies with respect to Withdrawn Quantities. The Storage Customer is not entitled to request any

compensation from EGD in case of deviations which are within the control tolerance as set out in Article 13 in Annex I to these GTCSS.

- (6) In case of operational and/or technical reasons, EGD may need to buy and /or sell Natural Gas quantities to operate the Storage Facility, and the Storage Customer may propose to sell and/or buy Natural Gas quantities to and/or from EGD at a price to be agreed between them.

§ 7 Storage Level at the End of the Contract Term

- (1) The Storage Customer must have reduced its Working Gas Account balance to “nil” (0) by the end of the Contract Term. As well as withdrawing Natural Gas, the Storage Customer may also transfer its Working Gas according to § 6 subsec. (3) to another Customer provided the latter has booked working gas capacity and the required capacities are still available to such other Customer.
- (2) If the Storage Customer does not meet the obligations under subsec. (1) above, the Storage Customer shall pay to EGD monthly penalties as of the end of the Contract Term as provided for in Annex III to these GTCSS.
- (3) If the Storage Customer still has not met the obligations under subsec. (1) above after the lapse of three (3) calendar months following the end of the Contract Term, the title to the Storage Customer’s remaining Natural Gas in store shall transfer to EGD at 80 % of the Reference Price observed over the entire Contract Term. Such transfer of ownership of the Storage Customer’s remaining Natural Gas to EGD does take immediate effect as at the relevant point in time without this requiring any further declaration by either Party on the transfer of ownership.
- (4) If for events of Force Majeure the Storage Customer has not been able to achieve a Working Gas Account of “nil” (0) at the end of the Contract Term, it is obliged to subsequently withdraw its Working Gas or entitled to transfer it to another Customer as quickly as possible in accordance with § 6 subsec. (3) to the best of its ability when the said reasons cease to exist. Subsec. (3) above applies accordingly as of the point in time the Force Majeure event ceased to exist.

§ 8 Transfer and Processing Data, Communication

- (1) The Storage Customer as well as EGD are entitled to forward contractual, billing and consumption data to the Network Operator, insofar this is necessary for the proper performance of the Storage Contract.
- (2) The Storage Customer hereby explicitly agrees to the automatic data processing by EGD or a company commissioned by EGD in accordance with the provisions of the relevant data protection laws.

- (3) The following principles apply to communication between EGD and the Storage Customer, in particular in regard to the provisions in § 5: contractually relevant information will be exchanged as described in Annex II and other information relating to storage, including information in the event of restrictions on the operation of the Storage Facility or a hazard will be exchanged by telephone and must be confirmed by e-mail, fax and/or in writing if so and as demanded by one of the Parties.

Each Party has responsibility for providing the required communication facilities.

§ 9 Information Obligations of the Parties, Follow-up of the Storage Contract

- (1) The Parties inform each other about all circumstances which are relevant in the context of the implementation of the Storage Contract.
- (2) The designated contact persons of the Storage Customer and EGD as set out in Attachment 2 of the Storage Contract are in charge of the follow-up of the performance of the Storage Contract. They shall meet each other on a regular basis, at least once each calendar quarter.

§ 10 Secondary Market, Transfer of Rights and Obligations

- (1) The Storage Customer is entitled to let a third party make use of the Storage Capacities it has booked under the Storage Contract either in whole or in parts ("**Transfer-of-Use**").

In case of a Transfer-of-Use pursuant to this subsec. (1), the Storage Customer remains the contractual party of EGD under the Storage Contract and is still obliged to fulfil all obligations resulting from the Storage Contract, in particular the obligation to pay the agreed Fees and to nominate the Natural Gas quantities to be injected or withdrawn in accordance with § 5. Accordingly, the Storage Customer remains fully liable towards EGD, in particular in case of off-spec gas being made available at the Take Over Point.

Upon request of the Storage Customer, the exercise of the rights under the Storage Contract, in particular the making of Nominations, can be made directly by the third party towards EGD. In this case the Storage Customer has to inform EGD reasonably in advance about the name, address, e-mail, fax and telephone number of the third party as well as the name of a contact person and is liable for all actions of the third party as if being its own.

- (2) Notwithstanding subsec. (1), the Storage Customer may also assign (in whole or in parts) its rights and obligations under the Storage Contract to a third party, however only with the prior written consent of EGD ("**Transfer**"). EGD has to grant the consent to any such assignment in case the third party assignee

must be considered reliable with respect to the due performance of the contractual rights and obligations under the Storage Contract. This is, for example not the case where the third party assignee does not provide the security pursuant to § 17 and has not proven its solvency pursuant to § 17, and/or has not proven its insurance pursuant to § 21, each as is required pursuant to the second last paragraph of this subsection (2).

The Storage Customer shall make a formal written request to EGD to assign all or parts of its rights and obligations under the Storage Contract ("**Transfer Request**"). The Storage Customer's Transfer Request shall specify the assignment date, the identity of the third party and the Storage Capacities concerned.

In case of refusal of consent EGD shall notify the Storage Customer about the reasons for this refusal.

In any case, the third party which is meant to assume the Storage Contract *in lieu* of the Storage Customer in whole or in parts has to provide the security pursuant to § 17 or to prove its solvency pursuant to § 17, respectively, and has to prove its insurance pursuant to § 21 within a period of ten (10) Working Days following EGD's receipt of the Assignment Request. For the avoidance of doubt, EGD is in any case not required to grant its consent before the respective evidence has been rendered to EGD.

However, EGD is not prevented to grant its consent earlier. In such a case the Storage Customer is joint and several debtor of the third party assignee for the fulfilment of the contractual obligations under the Storage Contract as long as the third party assignee has not provided EGD with the security pursuant to § 17 or has not evidenced its solvency pursuant to § 17 and/or has not proven its insurance pursuant to § 21.

§ 11 Deprivation of Storage Capacities

- (1) This § 11 does not apply as long as and to the extent § 11 A applies. The provisions in § 11 A shall prevail.
- (2) To prevent abusive hoarding of Storage Capacities, EGD shall request the Storage Customer as well as other EGD-Customers in text form to offer their unused Storage Capacities to third parties on the market in case they have not used their respectively booked Storage Capacities for a period of at least nine (9) consecutive months. The Storage Capacities are not used if in particular:
 - a) the booked (W)working (G)gas (V)volume is not used (vacancy), or
 - b) no injection or withdrawal takes place during the considered period hereinabove (storage halt) and this is demonstrably not customary in the market. For the avoidance of doubt, periods related to maintenance (as described in § 12), restriction or unavailability due to an Outage to the extent the Storage Customer is not liable for such restriction (as described in § 13) and Force Majeure (as described

in § 18) shall not be taken into account to calculate the nine-month period referred to hereinabove in order to consider whether the Storage Customer has used or not its booked Storage Capacities. It is on EGD to demonstrate that it is not customary in the market.

The usage only to a minor extent is also deemed a non-usage of the booked capacities. Usage “only to a minor extent” in particular exists if the usage apparently only takes place in order to avoid a withdrawal of capacities, or if no commercial or operational sense is recognisable behind the usage and such a behaviour is also not customary in the market.

- (3) Upon receipt of EGD’s request pursuant to subsec. (2) above, the Storage Customer shall offer the unused Storage Capacities to a third party within one (1) month following EGD’s request.
- (4) In case the Storage Customer does not offer the relevant Storage Capacities within one (1) month after EGD’s respective request or if he is not successful in selling the respective Storage Capacities within this period to a third party which fulfils the solvency requirements pursuant to § 17 or has provided a security to EGD pursuant to § 17 within that period, this is considered as the Storage Customer’s statement to return these (parts of the) Storage Capacities to EGD. This does not apply if the Storage Customer within the above mentioned one (1) month period conclusively demonstrates in writing towards EGD that it still needs the respective Storage Capacities threatened to be deprived:
 - in order to fulfil existing contractual obligations, in particular that it needs the Working Gas Capacity as reserve for the purpose of securing contractual obligations towards third parties, or
 - in order to exercise existing contractual rights towards third parties (“**Objection Notice**”).
- (5) EGD will examine the conclusiveness of the objection and will inform the objecting Storage Customer in writing about the result of its examination (acceptance or refusal of objection). This notification has to be made at the latest within five (5) Working Days after EGD has received the Objection Notice.
- (6) Upon expiry of the objection period without the receipt of an Objection Notice, or, in case of a timely Objection Notice, upon the Storage Customer’s receipt of EGD’s notification about its refusal of the Storage Customer’s objection, the Parties are released from their contractual obligations with respect to the Storage Capacities which have been deprived pursuant to this § 11. EGD can now market the deprived Storage Capacities anew.

- (7) However, despite the release from their contractual obligations pursuant to subsec. (5) above, the Storage Customer is upon request of EGD obliged to take over its Natural Gas in store at the Return Point to the extent (i) its Natural Gas in store exceeds the remaining Storage Capacities available to it after deprivation pursuant to this § 11 and (ii) the remaining Storage Capacities available to it are already fully used (i.e. Natural Gas in the storage).

If the Storage Customer has not met this obligation after the lapse of one (1) calendar month following EGD's respective request, § 7 subsec. (3) (transfer of title to EGD) shall apply accordingly, however with the *proviso* that the Reference Price shall be the one observed only for the period between commencement of the Contract Term until the deprivation pursuant to this § 11 took effect.

§ 11 A Deprivation of Storage Capacities under sec. 35 b EnWG

- (1) Pursuant to sec. 35 b (5) EnWG, EGD as storage system operator is obliged to make available to the market area manager (*Marktgebietsverantwortlicher*) the Storage Capacities (however only those booked on a firm basis) to the extent these are unused by the Storage Customer as per certain dates but where their usage would have been required to reach certain filling levels, each as further specified in the following subsections of this § 11A.
- (2) The Storage Customer shall observe at each "Relevant Date" set out in sec. 35 b (1) EnWG the "Required Individual Filling Level", in terms of percentage of firm Working Gas Capacity.
- (2a) Given the short-termism of changes to sec. 35a et seqq. EnWG (and related regulations) regarding gas storages, EGD retains – subject to the last sentence of this subsec. (2a) - the right to unilaterally modify and/or supplement the Required Individual Filling Level(s) as well as the Relevant Date(s) on short notice without observance of the notification period set out in § 26 (subsec.1) GTCSS, in order to implement new statutory requirements or authorities' orders related to the implementation of statutory requirements ("**Short Term Adjustment**"). Any Short Term Adjustment shall be made in writing, it being however understood that an email message sent to the Storage Customer with an attached scan of the signed Short Term Adjustment is deemed sufficient. In case of a Short Term Adjustment, the Storage Customer is – in deviation from § 26 subsec. (2) GTCSS entitled to terminate the Storage Contract only within a period of three (3) Working Days following the Short Term Adjustment with a notice period of ten (10) Days.

A Short Term Adjustment shall, however, only be exercised, if the adherence to the provisions and periods in § 26 GTCSS would conflict with EGD's obligation to timely implement the new statutory requirements or, as the case may be, authorities' orders related to the implementation of applicable statutory requirements.

- (3) As soon as EGD has recognized that the Required Individual Filling Level as at a Relevant Date is at risk to be not reached, EGD shall notify the Storage Customer, the BNetzA and the market area manager accordingly ("**RIFL-Warning**"). Following the RIFL-Warning, the Storage Customer is given the chance to catch up with the shortfall and make the required Nominations for injecting so much Working Gas as required to reach the applicable Required Individual Filling Level.
- (4) If and once – taking into account the Nominated Injection Quantities made since the RIFL-Warning – EGD determines that the Required Individual Filling Level won't be reached as per the forthcoming Relevant Date, EGD shall notify the Storage Customer, the BNetzA and the market area manager two (2) Working Days prior to the date at which it won't be possible anymore, even when injecting at maximum Injection Rate, to reach the Required Individual Filling Level (that date being hereinafter referred to as "**D-Day**") that the Unused Capacity, which will still exist on D-Day, however only to the extent as is required to meet the Required Individual Filling Level, will be deprived from the Storage Customer on D-Day and made available to the market area manager ("**Deprivation-Notice**"). Once the Deprivation-Notice has been made, the Storage Customer can no longer avert the deprivation, which takes effect on D-Day without any further notice being required. The Storage Customer who has received a Deprivation-Notice is hereinafter also referred to as "**Deprived Storage Customer**".
- (5) On D-Day, EGD makes available to the market area manager (i) the Unused Capacity to the extent required to meet the Required Individual Filling Level ("**Deprived Capacity**"), (ii) the maximum Injection Rate – however only until the forthcoming Relevant Date and (iii) the Withdrawal Rate, however only on an interruptible basis (together also referred to as "**Deprivation**").
- (6) In the time period starting on the second (2nd) Working Day prior to D-Day until D-Day ("**Interim Period**"), the Deprived Storage Customer's Nominations for injections of Working Gas will still be effected provided these Nominations have been made prior to the end of the third (3rd) Working Day prior to D-Day. No matter of the date of the Deprived Storage Customer's Nomination, injections for the Deprived Storage Customer will not be made as of D-Day until the forthcoming Relevant Date. In the Interim Period Re-nominations are not permitted for the Deprived Storage Customer.
- (7) As of the second (2nd) Working Day prior to D-Day until the forthcoming Relevant Date, the Deprived Storage Customer is not entitled to make any Nominations for withdrawal of any of its Working Gas in store.
- (8) Storage Customers which are not Deprived Storage Customers are in principle neither restricted in their Nominations for injection of Working Gas nor in their Nominations for withdrawals, however subject to the following sentence. Nominations for the Withdrawal of Working Gas will only be effected to the extent this does not lead to a missing of the Required Individual Filling Level for the forthcoming Relevant Date.

- (9) Towards the Storage Customer, the RIFL-Notice and the Deprivation Notice shall be made in writing, it being however understood that an email message sent to the Storage Customer with an attached scan of the signed notice is deemed sufficient.
- (10) The Deprived Capacity (no matter with respect to which Relevant Date it had been made) remains deprived (i.e. the respective deprivation remains effective) until the end of the current Storage Year; it ends as per then without any notice being required; the Deprived Capacity (as well as the deprived Injection Rate) is retransferred to the Storage Customer who then holds (again) the Storage Capacities.
- (11) Whilst the Deprivation is effective, the Storage Customer is barred from exercising its rights under the Storage Contract to the extent the deprived Storage Capacities are concerned but is still obliged to pay the Storage fee for the entire Storage Capacities (i.e. irrespective of whether those are partially or entirely deprived hereunder) with the exception of the Variable fee (V) (as set out in Annex III) of which he is released during Deprivation.
- (12) The deprivation pursuant to § 11 A does not apply to the extent the Unused Capacity is only the result of Planned or Additional Maintenance, Outages or other technical constraints such as, for example, a required recompletion of underground caverns of which the Storage Facility is composed.
Interruption Storage Capacities are not subject to Deprivation.
- (13) This § 11 A applies as long as sec. 35a until and including sec. 35f EnWG [*Part 3a - filling level requirements for gas storages and reliability of supply*] are in force and effect.

§ 12 Maintenance of the Storage Facility

- (1) EGD may suspend use of the Storage Facility (and accordingly the Storage Capacities) in whole or in part for maintenance (servicing, inspection and repair) and for construction, extension and adaptation of the Storage Facility ("**Planned Maintenance**").

In this respect the Planned Maintenance which impacts partially or fully the Storage Capacities shall not exceed 14 Days per Storage Year ("**Planned Maintenance Days**").

In addition to Planned Maintenance Days, the Injection Rate might be reduced up to 50% for a certain number of days (not exceeding 50 Days per Storage Year) due to additional interventions in the Storage Facility including the compressors ("**Additional Maintenance**" and "**Additional Maintenance Days**").

To the extent the Contract Term is less than one (1) calendar year, the 14 Planned Maintenance Days and the Additional Maintenance Days shall be reduced *pro rata temporis*. In addition, for the first year of a long term Storage Contract (i.e. having a Contract Term of more than one (1) calendar year) not being a full calendar year, the 14 Planned Maintenance Days and 50 Additional Maintenance Days are reduced *pro rata temporis*.

- (2) EGD will approach the Storage Customer until the 30th November in order to consult the Storage Customer about the timing for the Planned Maintenance Days and the Additional Maintenance Days (if any) for the next Storage Year with the aim to mitigate adverse consequences i.a. for the Storage Customer's operation. In the course of this consultation, the Storage Customer is free to inform EGD about its preferred period for performance of Planned and Additional Maintenance. As a gesture of good will, EGD shall take into account the Storage Customer's preferences but is *not* bound to respect or to implement these preferences.
- (3) Annually, however not later than 31st January, EGD shall send to the Storage Customer a notice ("**Maintenance Notice**") specifying:
- the Planned Maintenance Days for the following Storage Year,
 - the Additional Maintenance Days for the following Storage Year,
 - the estimated schedule of the Planned Maintenance Days ("**Schedule of Planned Maintenance**"),
 - The estimated schedule of Additional Maintenance Days ("**Schedule of Additional Maintenance**").

(4) Planned Maintenance

It is understood that EGD shall not exceed the Planned Maintenance Days notified to the Storage Customer in the Maintenance Notice for the relevant Storage Year during which the Planned Maintenance is forecasted.

EGD may revise the Schedule of Planned Maintenance by a Maintenance Notice issued not later than the first (1st) Day of the Storage Month preceding the Storage Month in which the Planned Maintenance was previously scheduled provided that the revised Planned Maintenance shall not be scheduled before the initially scheduled date. In case EGD wishes to revise a Planned Maintenance which shall take place before the date initially scheduled, EGD shall notify the Storage Customer not later than the first (1st) Day of the Storage Month preceding the Storage Month in which the revised Planned Maintenance should effectively occur.

For each Planned Maintenance Day carried out, EGD shall be suspended for the duration and within the limit of the effects of these Scheduled Maintenance operations from its obligations under the Storage Contract without the Storage Customer being entitled to claim any damage or compensation for such suspension of the storage

services due to Planned Maintenance, or being released from its payment obligations under the Storage Contract pursuant to § 15.

(5) **Additional Maintenance**

- (5.1) In case Additional Maintenance occurs during the days foreseen by the Schedule of Additional Maintenance, the Malus for a suspension or reduction of the Injection Rate in that period shall apply and shall be equal to the higher of the following two amounts:
- 50% of the Malus applicable to a suspension or reduction of the Injection Rate during that period pursuant to the calculation as set out in § 13 subsec. (3); and
 - 3.47% of the hourly Storage fee multiplied by each Gas hour during that period affected by Additional Maintenance.

The applicable amount will be deducted from the Storage fee for the month in which the last day of the Additional Maintenance Schedule falls.

- (5.2) In case Additional Maintenance occurs in days *not* foreseen by the Schedule of Additional Maintenance, no discount will be applied to the Malus arising from unavailability.

- (6) If the actual Additional Maintenance Days and the Planned Maintenance Days together do not exceed 14 Days in total per Storage Year, no Malus is payable for Additional Maintenance.

§ 13 Interruption, Outages and Abated Payment obligations

- (1) Interruptible Storage Capacities can be interrupted by EGD any time without any reason if and to the extent the respective capacities are not available and pursuant to Annex I to these GTCSS ("**Interruption**").

- (2) EGD is entitled to restrict or suspend the provision of firm Storage Capacities, the take over of the Natural Gas at the Take Over Point and the return of the Natural Gas at the Return Point for a transitional period of time if this is required, which is especially the case, but not limited to:

- to prevent direct danger to persons and/or technical facilities or equipment; or
- to ensure that disruptive effects on installations of EGD or third parties are prevented; or
- to prevent the Natural Gas from being injected or withdrawn such that the metering equipment is bypassed or compromised; or
- to counteract technical incidents

(any of those or altogether referred to as "**Outage(s)**"). For the avoidance of doubt, Planned Maintenance is not deemed to be an Outage.

EGD shall inform the Storage Customer about such Outage without undue delay by sending a Restriction Report via e-mail or fax to the Storage Customer within one (1) Hour after the beginning of the Outage unless in case of imminent danger. For the avoidance of doubt, an Outage (if known in advance) may be communicated to the Storage Customer by an Availability Report or a Restriction Report.

The Restriction Report shall specify the following:

- i. Day and time of the start of the period of unavailability;
 - ii. Brief description of the reason for the unavailability;
 - iii. Actual availability of the Storage Capacities (Injection Rate / Withdrawal Rate and Working Gas Capacity);
 - iv. Estimated duration of the Outage and estimated day and time when the Storage Facility will be fully operational again.
- (3) To the extent that and for as long as the firm Storage Capacities contracted by the Storage Customer are suspended or restricted (other than for reasons referred to in Annex I to these GTCSS), the payment obligations of the Storage Customer to pay the full Storage fee for the firm (Bundled or Unbundled) Storage Capacities shall be reduced; the price component of the Basic Fee (as is provided for in Annex III Article 2 a) concerning Products No.1 and No.2) which is allocated to that element of the Storage Capacity which is restricted or suspended (e.g. the withdrawal rate), shall be reduced in the ratio of the respective element of the Storage Capacity being affected by the restriction or suspension. For example, if the withdrawal rate is restricted by 50%, the respective partial amount of the Basic Fee for Product No.1 - i.e. Bundled Storage Capacity - which is allocated to the withdrawal rate (i.e. 26% in case of Product No. 1 pursuant to Annex III Article 2 a)) is also reduced by 50 %.
- This reduction applies for the duration of the restriction or suspension. For the avoidance of doubt, this reduction of the fee will not be applied during the Planned Maintenance Days as provided for in § 12.
- (4) As the Fees set out under Annex III Article 2 are fees for annual products, the calculation of the reduction of the Storage fee requires a conversion into hourly Storage fees.
- a) The mechanism for this conversion from annual to hourly Storage fee for firm Bundled Storage Capacities, taking into account the possible suspensions or restrictions, is as follows:
 - The starting point for the calculation of the Storage fee reduction shall be the annual Basic Fee (or, in the case of a shorter term contract, the storage fee payable for this period calculated *pro rata temporis*) according to Annex III Article 2 a) of the Storage Contract.
 - The fee shall be converted to an hourly fee.

- Where a Restriction Report is used in the calculation below, an Outage of less than one hour will be deemed to be one full hour.
- The Basic Fees for Bundled Storage Capacities shall be broken down into the relevant fee element for the individual Storage Capacities by using the percentages for Product No 1 in Annex III, Article 2 a (26% of the price for the withdrawal rate, 40% for the injection rate and 34% for the working gas capacity). The hourly fee for Bundled Storage Capacities will be calculated as follows:

$$\text{Hourly fee bundled} = \left(40\% \times \frac{IA}{IC_{fb}} + 26\% \times \frac{WA}{WC_{fb}} + 34\% \times \frac{WGA}{WGC_{fb}} \right) \times \text{hourly fee}$$

Where

IA = injection rate made available to the Storage Customer, limited to an amount equal or lower than the respective element of the firm Bundled Storage Capacity contracted by the Storage Customer as stated in the most recent Availability Report for that hour or Restriction Report as applicable

IC_{fb} = firm Bundled injection rate contracted by the Storage Customer subject to Injection Restrictions described in Annex I Article 8

WA = withdrawal rate made available to the Storage Customer, limited to an amount equal or lower than the respective element of the firm Bundled Storage Capacity contracted by the Storage Customer as stated in the most recent Availability Report for that hour or Restriction Report as applicable

WC_{fb} = firm Bundled withdrawal rate contracted by the Storage Customer subject to Withdrawal Restrictions described in Annex I Article 7

WGA = working gas capacity made available to the Storage Customer, limited to an amount equal or lower than the respective element of the firm Bundled Storage Capacity contracted by the Storage Customer as stated in the most recent Availability Report for that hour or Restriction Report as applicable

WGC_{fb} = firm Bundled Working Gas Capacity contracted by the Storage Customer

- b) The mechanism set out under lit. a) above applies accordingly to a reduction of the Storage fees for firm, Unbundled Storage Capacities.

§ 14 Natural Gas Quality and Transmission Pressure

- (1) The quality of the Natural Gas made available at the Take-Over-/Return-Point for injection/withdrawal has to comply with the Network Operator's published requirements for the Take Over and Return Point.

The Natural Gas to be injected at the Take Over Point or to be withdrawn at the Return Point shall also meet (i) the Network Operator's published requirements for the transmission pressure at the Take Over and Return Point and (ii) the characteristics of the transmission pressure as further specified in Annex I to these GTCSS.

- (2) EGD has the right to control the quality of the gas in the Storage Facility and in particular the gas made available by the Storage Customer at the Take Over Point.
- (3) If any such control reveals that the Natural Gas made available at the Take Over Point by the Storage Customer fails to meet the quality specifications according to under subsec. (1) (off-spec gas), EGD shall be entitled to refuse the take over of the off-spec gas in whole or in part. In this case, the Storage Customer shall immediately adjust its Nomination accordingly and shall make sure that no further off-spec gas is made available at the Take Over Point.
- (4) If the Natural Gas transmitted by EGD to the Return Point for withdrawal fails to meet the quality specifications defined under subsec. (1) (off-spec gas) at the Return Point or is rejected by the Network Operator, the Storage Customer shall be entitled to refuse the takeover of the off-spec gas in whole or in part. In this case, the Storage Customer shall immediately adjust its Nomination accordingly.
- (5) The Parties shall inform each other without undue delay if knowledge should be gained that off-spec gas is made available at the Take Over and/or Return Point or that this is to be reasonably expected.
- (6) For the avoidance of doubt, in case off-spec gas is made available at the Take Over and/or Return Point, the Parties' liability is governed by the liability regime set out under § 20.

§ 15 Remuneration and Public Charges

- (1) In return for the Storage Capacities and the provision of associated system services the Storage Customer is obliged to pay Fees (being composed of a fixed and a variable fee) to EGD as further specified in Annex III to these GTCSS and § 2 of the main body of the Storage Contract. The Fees are net amounts. In addition the Storage Customer shall pay value-added tax at the statutory value-added tax rate as being applicable from time to time in so far as value added tax is levied on the Fees payable by the Storage Customer.
- (2) Where, in connection with the storage of Natural Gas or the operating means used for the storage, taxes or other public charges which are legally due by the Storage Customer are raised for the first time, increased, not raised anymore, or decreased, the Fees to be paid by the Storage Customer shall be adjusted accordingly as of the effectiveness of the respective regulation. Such a charging of additional costs shall not take place, where those costs in terms of amount and time of their becoming have been foreseeable at the time of conclusion of the Storage Contract, or where the charging would be contrary to the statutory regulation. Any discharges resulting from newly raised taxes or public charges shall be credited.

The above adjustment is not meant to provide an additional profit to either Party compared to the previous situation.

§ 16 Invoicing and Payment

- (1) Invoices will be sent to the Storage Customer by regular mail or electronic mail.
- (2) EGD shall invoice on or before the fifteenth (15th) Working Day of the Storage Month the Storage Customer for the Fees and charges that are chargeable for the previous Storage Month. EGD will commercially round up or down the invoice amounts to two decimal places.

Any amounts invoiced by EGD shall be net of any applicable taxes, duties and other charges which shall be payable by the Storage Customer separately and as may be included in the invoice, including value added tax.

- (3) The invoice shall include the identity details (e.g. VAT ID) of the Storage Customer, the Storage Capacities to which the invoice relates and that part of the storage period covered by the invoice. Furthermore, the invoice shall show which part of the invoiced amount is allocated to the storage fee (fixed fee component), the System Service Fee and the variable fee. Any delay in submitting an invoice will not prejudice, limit or otherwise alter the liability of the Storage Customer to pay the amounts invoiced.
- (4) Payment of an invoice for any Storage Month must be made by the Storage Customer not later than ten (10) Working Days after receipt of EGD's invoice. If the due date as defined above is not a Working Day for banks in Germany or in the country where the Storage Customer's banking institution is located, the payment deadline shall be postponed to the next Working Day.

The place of performance for payment is the seat of EGD. The Storage Customer shall pay to EGD the invoices with a fixed value date onto EGD's following bank account:

EDF Gas Deutschland GmbH

Bank: ING Bank, Niederlassung der ING-DiBa AG
BLZ : 500 210 00
Konto-Nr: 00 101 259 20
IBAN: DE73500210000010125920
BIC/SWIFT: INGBDEFFXXX

Payments are only deemed to have been made once EGD's bank account has been credited with the full invoiced amount.

- (5) All payments by the Storage Customer shall be made in Euro. Payment shall be made in full without any set-off or deductions. The Storage Customer is only entitled to exercise a right of retention or to set-off own its claims towards EGD against claims of EGD under the Storage Contract, if and to the extent the Storage Customer's claims are undisputed or finally determined with legally binding effect. No discount will be granted for early payment.
- (6) If the Storage Customer fails to pay (in whole or in parts) when payment is due pursuant to subsection (4) above, EGD is entitled to charge default interests on the overdue amounts at a rate corresponding to one (1) time of the 1-month Euro Interbank Offered Rate (EURIBOR) + five (5) percentage-points applicable on the due date for payment. Other claims of EGD because of late payment shall remain unaffected.
- (7) If any part of an invoice is disputed by the Storage Customer, the Storage Customer must raise its objections towards EGD in writing immediately, in any event not later than one (1) Working Day before the payment period expires, by indicating the disputed amount and by specifying the cause of dispute. Objections in respect of errors that the Storage Customer cannot detect, despite exercising due care, may also be raised after the above period of time has elapsed as soon as the Storage Customer has become aware of the reasons for the objection.

Saving the presence of obvious errors (e.g. calculation errors), objections to the invoices shall not entitle the Storage Customer to defer, reduce or refuse payment. Such objections, if justified, shall only confer a claim to refund. The disputed amount can be paid subject to reservation.

- (8) The Parties shall attempt to resolve any dispute in good faith. The final account is rendered when the differences of opinion have been settled or the arbitration tribunal, provided for in § 24, has rendered a legally binding decision.

If the disputed amount paid by the Storage Customer pursuant to subsec. (7) is subsequently found to not have been payable by it, EGD shall repay such disputed amount within five (5) Working Days and it shall bear interest corresponding to one time of the 1-month Euro Interbank Offered Rate (EURIBOR) + five (5) percentage-points applicable at the time the repayment becomes due. The accepted refund claims including interests will be included in the next invoice.

§ 17 Solvency Assessment and Security

- (1) The Storage Customer can apply to EGD at any time to individually assess its solvency in relation to Fees to be paid, taxes, and other public charges according to the respective Storage Contract. To its end, the Storage Customer shall provide EGD with all information necessary for such a solvency assessment. The information supplied must enable EGD to undertake a qualified assessment of the Storage Customer's

solvency.

The Storage Customer is advised to initiate this individual assessment given EGD's right to not render services pursuant to § 23 subsec. (1) until the security pursuant to this § 17 is provided or the solvency of the Storage Customer pursuant to § 17 is proven and until its insurance pursuant to § 21 is proven.

The Storage Customer shall immediately disclose any change which significantly impacts on its solvency, in particular the ending of any profit and loss pooling agreement according to § 291 of the Stock Corporation Act (*Aktiengesetz, AktG*).

- (1a) Vice versa, EGD can request the Storage Customer to undergo a solvency assessment and to provide and demonstrate to EGD its solvency state either after having received a Binding Storage Service Request pursuant to § 2 or a binding offer under an Auction pursuant to § 2A subsec. (3) or following the conclusion of a Storage Contract.
- (2) Where the Storage Customer's solvency is verified by a solvency assessment in the meaning of subsec. (1) (or (1a), as the case may be) by having a long term credit-rating that is at least "Baa1" from Moody's Investors Services or "BBB+" from Standard & Poor's Corporation, the Storage Customer is not obliged to furnish security to EGD.

The solvency assessment may subsequently be repeated annually and in cases EGD reasonably expects a deterioration of solvency. Upon EGD's request, the Storage Customer shall provide EGD documents presented for the previous solvency assessment in updated form; subsec. (3) applies accordingly.

- (3) Where a solvency assessment of the Storage Customer's solvency in the meaning of subsec. (1) (or (1a), as the case may be) reveals a long term credit-rating that is lower than "Baa1" from Moody's Investors Services or "BBB+" from Standard & Poor's Corporation, the Storage Customer shall provide without undue delay EGD with a security which shall be either (i) a bank guarantee payable on first demand or (ii) a guarantee of its parent company in an amount corresponding to the remuneration of the Storage Fees (being the fixed fee component of the Fees as further detailed in Annex III) due for one Storage Year, provided that any such guarantor has a long-term credit-rating equal to or better "A2" from Moody's Investors Services to "A -" from Standard & Poor's Corporation.
- (4) If by the date of the conclusion of the Storage Contract - no matter whether according to § 2 or according to § 2A by means of an auction - or if during the Contract Term the Storage Customer cannot provide and demonstrate to EGD a rating from Moody's Investors Services or Standard & Poor's Corporation as stated above under subsec. 2, the Storage Customer shall without undue delay provide EGD with a security which shall be either (i) a bank guarantee payable on first demand or (ii) a guarantee of its parent company in an amount corresponding to the remuneration of the Storage Fees

(being the fixed fee component of the Fees as further detailed in Annex III) due for one Storage Year, as security, provided that any such guarantor has a long term credit-rating during the term of the Storage Contract of "A2" from Moody's Investors Services or "A -" from Standard & Poor's Corporation. § 2 subsec. (10) remains unaffected.

- (5) Where the solvency assessment is completed subsequent to the Storage Customer's provision of the security, and as a result of this solvency assessment the Storage Customer is only obliged to provide for a lower security or even no security at all, then EGD shall return the bank guarantee/the parent company guarantee, as the case may be in return for receiving the respective lower security.
- (6) After final termination of the Storage Contract (i.e. once all rights and obligations have been fully and finally settled following the end of the Contract Term with the exception of the obligation hereunder), EGD shall return the bank guarantee or, as the case may be, the parent company guarantee.
- (7) Where the Storage Customer has furnished a bank guarantee, and subsequently assigned to another Customer its Storage Capacities as provided in § 10 subsec. (2), EGD shall return the furnished security in the corresponding value.
- (8) EGD shall be entitled to have the solvency assessment processed by a qualified third party.
- (9) If the Storage Customer does not comply with the credit requirements as set out in this § 17 and fails to remedy such non-compliance within ten (10) Working Days after written notice by EGD, EGD is entitled to terminate the Storage Contract with immediate effect pursuant to § 23, it being understood that neither Party can claim any damages, indemnity or compensation from the respective other Party in such case.

§ 18 Force Majeure

- (1) A Party shall be discharged from its obligations under the Storage Contract to the extent that and for as long as their fulfilment is not possible or cannot be reasonably expected as a result of Force Majeure or other circumstances the Party is not responsible for.

"Force Majeure" shall be any event beyond the control of the affected Party which cannot be reasonably foreseen and prevented in time acting as a Reasonable and Prudent Operator and which could not be avoided or overcome through the implementation of reasonable measures taken by the Reasonable and Prudent Operator, the effect of which is to make it impossible to perform all or part of any of its obligations under the Storage Contract, including but not limited to:

- act of god;

- war declared or undeclared, threat of war, act of public enemy, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism;
- strike, lockout;
- incident caused by the Network Operator which could not be reasonably foreseen by either Party;
- accident not caused by EGD that affects operations, such as explosion, fires, or power failures;
- governmental restraints or the coming into force of any applicable law materially affecting the rights or licences to operate the Storage Facility, including the commercial operation.

The inability (no matter for which reason) of a Party to pay shall not be Force Majeure.

- (2) If and to the extent a Party uses facilities of third parties (auxiliary persons also being third parties) to perform its contractual obligations, an event affecting such third party facilities which would constitute a Force Majeure event as defined above with respect to that Party's own facilities shall be deemed a Force Majeure event under the Storage Contract in favour of this Party. The same applies if and to the extent an event affects the Network Operator which would constitute a Force Majeure event as defined above with respect to the Network Operator.
- (3) The act or omission of any agent or contractor of either Party shall not be Force Majeure unless such act or omission is caused by or results from events and/or circumstances which would be Force Majeure as defined above, if such person was the affected party.
- (4) To the extent and for as long as EGD is not able or cannot be reasonably expected to perform its obligations as a result of Force Majeure or circumstances for which EGD is not responsible, the Storage Customer shall be discharged from its payment obligations under § 2 of the main body of the Storage Contract for a corresponding period.
- (5) The Party which is affected by Force Majeure or the Party which is not able or cannot be reasonably expected to perform its obligations due to circumstances for which it is not responsible must notify the other Party without undue delay and must advise the precise reasons and the anticipated duration of the disturbance which has occurred and the obligations of the performance of which are affected thereby. It has to take all commercially reasonable measures to minimise the effects of said Force Majeure and shall resume the normal performance of the Storage Contract as soon as possible and shall from time to time provide the other Party the progress of the said measures.
- (6) Where the performance of the contractual obligations is affected by Force Majeure or where a Party is not able or cannot be reasonably expected to perform its obligations due to circumstances for which it is not responsible for a period of ninety (90)

consecutive calendar days and during which in average more than fifty (50) % of the contractual Storage Capacities are affected during this time, the other Party is entitled to terminate the Agreement with immediate effect pursuant to § 23, it being understood that neither Party can claim any damage, indemnity or compensation from the respective other Party in such case.

§ 19 Confidentiality

- (1) Each Party shall treat the contents of this Storage Contract and all information and matters of which it gains knowledge in its capacity as a Party to this Storage Contract confidential ("**Confidential Information**"). The Parties shall not disclose, use, communicate or reveal (together "**Disclosure**") to any person (either individual or legal) Confidential Information unless the respective other Party has agreed to such a Disclosure in writing in advance. Any Disclosure to members of a legal, economic or tax advisory profession who are subject to a statutory professional duty of confidentiality is permissible without the consent of the other Party, if and to the extent such Disclosure is necessary to safeguard its own justified interests in connection with this Storage Contract.
- (2) The duty of confidentiality pursuant to subsec. (1) does not apply and Disclosure can thus be made :
 - a) to contractors and agents of EGD but only (i) to the extent there is a reasonable purpose for the Disclosure being induced by this Storage Contract, (ii) on a need-to-know basis with respect to the due performance of the Storage Contract and (iii) provided that any such contractor and agent has also subduded itself in writing to a duty of confidentiality including its commitment to not further disclose the Confidential Information; or
 - b) to EGD's contractual partners but only (i) to the extent the respective contract concerns the operation and/or maintenance of the Storage Facility, (ii) to the extent necessary for the due performance of the respective contract and (iii) provided that any such contractual partner is also bound by confidentiality under the respective contract; or
 - c) to the Parties' consultants, banks and insurance companies, but only (i) to the extent necessary for the due performance of the Storage Contract and (ii) if those persons have also committed themselves in writing to a duty of confidentiality including their commitment to not further disclose the Confidential Information (unless they are bound by confidentiality by nature of their professional); or
 - d) to any tax- and finance-authority to the extent reasonably required for the purpose of the tax or financial affairs of the Party concerned or any member of its group; or

- e) to the extent the Confidential Information is within the public domain otherwise than as a result of a breach of this § 19; or
 - f) to the extent the Confidential Information has legitimately already been known to the Party at the time it obtained such Confidential Information; or
 - g) where Confidential Information has to be disclosed due to applicable laws and regulations, other statutory provisions (including foreign law applying to companies listed on regulated market for stock exchanges), a judicial order, an official order or an order of public authorities and similar, in which case the disclosing Party shall immediately inform the other Party thereof; such information is not required where publication is required under the EnWG, associated German Regulations or the EU Regulation No. 715/2009.
- (3) The Parties shall ensure that their personnel as well as their auxiliary persons and vicarious agents also keep strict confidentiality concerning the Confidential Information.
 - (4) The Parties may exchange with the Network Operator any data relevant to operations of the Storage Facility.
 - (5) The duty of confidentiality shall expire five (5) years after the end of the Contract Term. Mandatory statutory obligations of confidentiality remain unaffected.
 - (6) Sec. 6a EnWG remains unaffected.

§ 20 Liability

- (1) The Parties are liable towards each other for any damage to life, body or health, unless this damage is caused by the Party itself, its legal representative or its auxiliary person or vicarious agent not acting negligently or deliberately.
- (2) In case of violation of essential contractual obligations, where only the performance of these obligations renders the due implementation of the Storage Contract possible and which the Parties may trust to be adhered to, the Parties are liable towards each other for property damage and pecuniary damage, unless the Party itself, its legal representative or its auxiliary person or vicarious agent have not acted negligently or deliberately. In case of property damage or pecuniary damage, which has been caused by slight negligence, the Parties' liability towards the respective other Party is limited to *EUR 5 million* in case of property damage and *EUR 1 million* for pecuniary damage. For the avoidance of doubt, the liability of a Party in case of damage which has been caused by gross negligence and/or wilful act is not limited.
- (3) In case of a violation of non-essential contractual obligations the Parties are liable towards each other for property damage and pecuniary damage, unless the Party itself, its legal representative or its executive auxiliary person or vicarious agent have neither

been grossly negligent nor acted deliberately. The liability of the Parties in case of gross negligence causing property or pecuniary damage is limited to *EUR 5 million* for property damage and to *EUR 1 million* for pecuniary damage. For the avoidance of doubt, the liability of a Party in case of damage which has been caused by wilful act is not limited.

- (4) For damages which the Storage Customer incurs due to a tortious act in connection with the performance of the Storage Contract, in particular resulting from an interruption or other irregularity concerning the take over or return of Natural Gas, the liability in case of grossly or slightly negligently caused property and pecuniary damage is limited to *EUR 5 million* for property damage and to *EUR 1 million* for pecuniary damage.
- (5) The Parties' liability pursuant to mandatory provisions of the German Liability Act (*Haftpflichtgesetz*) and other mandatory legal provisions remain unaffected.
- (6) Subsec. (1) to (4) also apply to the benefit of EGD's legal representative, employees, auxiliary persons and vicarious agents.

§ 21 Insurance Obligation

- (1) Prior to the conclusion of the Storage Contract the Storage Customer has to prove towards EGD the existence of a third party liability insurance which is adequate with respect to the risk the Storage Customer has to bear under the Storage Contract; the insurance has to be maintained for the entire Contract Term.
- (2) In case the third party liability insurance contract ends during the Contract Term, for whatever reason, the Storage Customer has to inform EGD thereof without undue delay in writing. If the Storage Customer has not proved until at the latest one (1) month prior to the expiry of the third party liability insurance contract that a new third party liability insurance contract exists which follows the old contract, EGD is entitled to terminate the Storage Contract for reasons of good cause pursuant to § 23, it being understood that neither Party can claim any damages, indemnity or compensation from the respective other Party in such case. In any case, the Storage Customer has to inform EGD without undue delay about every modification of its insurance contract.

§ 22 Assignment by EGD

- (1) Subject to subsec. (2) below EGD shall be entitled to assign (in whole or in parts) its rights and obligations under the Storage Contract only with the prior written consent of the Storage Customer.
- (2) Notwithstanding subsec. (1) above, the assignment of rights and obligations under the Storage Contract by EGD to an Affiliate does not require the prior consent of the

Storage Customer. EGD shall immediately inform the Storage Customer about any such assignment to an Affiliate and the scope of this assignment.

§ 23 Right to Refuse Performance and Termination of the Storage Contract

- (1) EGD is not obliged to render services under the Storage Contract until the security pursuant to § 17 is provided or the solvency of the Storage Customer pursuant to § 17 is proven and until its insurance pursuant to § 21 is proven.
- (2) EGD is entitled to reduce or discontinue its services if the Storage Customer despite a warning with an adequate remedy period does not pay - either in whole or in parts - amounts which have been invoiced by EGD and which are due within the set time period.
- (3) EGD is in particular entitled to terminate the Storage Contract for reasons of good cause with immediate effect if:
 - a) the Storage Customer is repeatedly (at least two times) in default of payment; and/or
 - b) the Storage Customer is responsible for a restriction or unavailability pursuant to § 13 and has not remedied the situation within a reasonable remedy period which it has been granted by EGD for remediation.
- (4) The Storage Customer is entitled to terminate the Storage Contract, with effect as at the end of each Storage Year upon 3-month written notice to EGD.
- (5) Furthermore, both Parties are entitled to terminate the Storage Contract for reasons of good cause with immediate effect, it being understood that a good cause in particular exists if:
 - a) the other Party violates essential provisions of the Storage Contract and the violation has not been remedied within thirty (30) Working Days after the other Party has requested by written notice to remedy the breach;
 - b) the other Party becomes insolvent or insolvency proceedings have been opened over the assets of the other Party or the opening of such proceedings has been refused due to a lack of assets;
 - c) orders pursuant to sec. 21 German Insolvency Act (InsO) have been made against the other Party; or
 - d) the other Party has filed an application for the opening of insolvency proceedings over their own assets.

Each Party is obliged to inform the other Party without undue delay as soon as it becomes aware of the application for insolvency proceedings over its assets, the initiation of preliminary security measures or the opening of insolvency proceedings.

- (6) The rights of termination set out in § 13 [Interruption and Outages], § 17 [Solvency Assessment and Security], § 18 [Force Majeure], § 21 [Insurance Obligations], and § 26 [Adjustment of the GTCSS to Statutory and Authority Requirements] remain unaffected.
- (7) Any termination of the Storage Contract must be made in writing.
- (8) Upon effectiveness of a termination pursuant to this § 23, § 7 applies accordingly, however with the *proviso* that the relevant period pursuant to § 7 subsec. (3) shall be one (1) calendar month following the effectiveness of the termination.

§ 24 Applicable Law, Settlement of Disputes

- (1) The Storage Contract (including these GTCSS) shall be governed exclusively by the laws of the Federal Republic of Germany. Intergovernmental agreements and the United Nations Convention on contracts for the international sale of goods (CISG) shall not apply, even if adopted by German law.
- (2) The Parties shall endeavour to settle disputes through negotiation. Should negotiations fails, all disputes arising out of or in connection with the Storage Contract or concerning its validity shall be settled finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) without recourse to the ordinary courts. Sec. 1033 German Civil Procedural Code (*Zivilprozessordnung*, ZPO) remains unaffected.

The tribunal shall consist of three (3) arbitrators appointed one being the chairman of the tribunal. Place of the arbitration is Zurich, Switzerland.

Language of the arbitration is English.

§ 25 Adjustment of Contract in Case of Changed Circumstances

If during the Contract Term unforeseen circumstances not foreseeable at the time the Storage Contract was concluded, occur which have a fundamental commercial, technical and/or legal impact on the Storage Contract which have not been considered when concluding the Storage Contract, and if consequently any of the contractual provisions should become entirely unreasonably or unacceptable for either Party to be adhered to (*unzumutbar*), the affected Party can request from the other Party to respectively adjust the contractual provisions (including the Fees) so that the changed circumstances are duly accounted for, taking into account all commercial, technical and legal effects thereof for the other Party. The requesting Party shall justify its request in writing. The Parties shall come together to define the adjustment that could be made to the Storage Contract in line with the non discrimination principle. Should the Parties

fail to agree on an adjustment within three (3) months, each of the Parties shall be entitled to refer the dispute to arbitration as specified in § 24 subsec. (2). During the period where the Parties shall seek an agreement on the adjustment of the Storage Contract, the current version of the GTCSS in force at the time of the dispute shall remain applicable.

The agreed adjustment to the Storage Contract by the Parties shall be effective as of the point in time when the requesting Party has first requested such change according to the above subsection. The same applies in case the adjustment has been decided upon by an arbitral tribunal pursuant to § 24 subsec. (2).

§ 26 Adjustment of the GTCSS to Statutory and Authority Requirements

- (1) EGD is entitled to amend the GTCSS, if an amendment of the GTCSS is required in order to comply with (i) applicable laws, (ii) applicable regulations, (iii) requirements, determinations or other notifications of the BNetzA and/or (iv) legally binding decisions of German or international courts or authorities. In such a case EGD will notify the Storage Customer hereof without undue delay, however at the latest six (6) weeks prior to the envisaged effectiveness of the amendments in writing.
- (2) In case the Storage Customer does not agree with the notified amendments, the Storage Customer is entitled to terminate the Storage Contract in writing with a notice period of four (4) weeks with effect as at the date the changes become effective.
- (3) In case the Storage Customer does not exercise its termination right, the amendments shall be deemed accepted and the changed terms and conditions apply. EGD will notify the Storage Customer about the termination right and the effects in case the termination right is not exercised.
- (4) The Storage Customer is not entitled to any compensation in case of a termination.
- (5) To the extent mandatory statutory law provides for different periods and/or additional termination rights whether for Storage Customer or EGD, those shall apply and, in case of conflict, prevail the respective period / termination right set out in this § 26.

§ 27 Other Amendments to and Revision of the GTCSS

- (1) EGD will increase the tariffs of Annex 3 according to the table below in case the Summer/Winter spread (SW spread) on the TTF market registers a substantial increase. To this end the SW spread is determined in an index period beginning on 1 September and ends on 30 November before the start of the relevant storage year. The spread is determined for each day of this period for which the required forward quotations at the TTF are published in ICIS European Spot Gas Markets (ESGM) in accordance with the following formula:

SW spread(d) = Absolute value of [(Bid TTF winter(d) + Offer TTF winter(d))/2 - (Bid TTF summer(d) + Offer TTF summer(d))/2]

From the sum of the SW spread(d)s determined each day, the rounded average is then calculated and constitutes the SW spread.

	Increase of tariff in Annex III
SW spread \leq XXX €/MWh	0%
XXX < SW spread \leq YYY €/MWh	+W%
YYY < SW spread \leq ZZZ €/MWh	+WW%
SW spread > ZZZ €/MWh	+WWW%

- (2) In addition to the rights provided for in § 26, EGD is entitled to amend the GTCSS for the future. In such cases, EGD informs the Storage Customer beforehand at least one (1) calendar month prior to the date the amended terms and conditions become effective, about the amended terms and conditions in writing and publishes the amended terms and conditions on the Website. The so amended GTCSS are deemed accepted by the Storage Customer if the Storage Customer does not object to the amendment vis-à-vis EGD in writing within thirty (30) Days following the date the Storage Customer has received the information about the envisaged amendment of the GTCSS. In case of objection the previous GTCSS continue to apply to the Storage Contract. EGD will notify the Storage Customer about the commencement of the objection period and that a non-objection is deemed as an acceptance of the amended terms and conditions.

§ 28 Written Form

Subject to the provisions of § 25, § 26 and § 27 above (adjustment, amendment and revision of the GTCSS) any modifications, amendments and supplements of the Storage Contract must be made in writing. This also applies to this written form requirement. For adjustments, amendments and revisions of these GTCSS § 25, § 26 and § 27 apply.

§ 29 Entire Agreement

The Storage Contract including these GTCSS and the respective attachments and Annexes thereto contains the entire agreement between the Parties with respect to the subject matter thereof, and supersedes all previous agreements or understandings between the Parties with respect thereto.

§ 30 Severability Clause

Should a provision of the Storage Contract or the GTCSS be or become invalid, void or unenforceable, the remainder of the provisions of this Storage Contract and the GTCSS remain unaffected. The Parties are rather obliged to replace the invalid, void or unenforceable provision by a valid provision which comes as closest as possible to the commercial intent of the invalid, void or unenforceable provision; the so replaced provision shall take effect as of the point in time the invalidity/voidness/ unenforceability occurred. The new provision shall adequately take into account the interests of both

Parties. The above applies accordingly in case there is a contractual gap. The Parties are aware of the decisions of the German Federal High Court (*Bundesgerichtshof*), in particular its judgment of 24.09.2002 – KZR 10/01. It is, however, the explicit intent of the Parties that this provision shall not just be a mere reverse of the burden of proof but that sec. 139 German Civil Code (*Bürgerliches Gesetzbuch, BGB*) is not applicable in its entirety.
