



Annex A

**Terms and Conditions
Etzel Gas-Lager – Statoil**

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(hereinafter referred to as “SDS”)

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1. **INTERPRETATION / DEFINITIONS**

1.1 **Interpretation**

Terms used in the singular shall also include the plural and vice versa unless expressly agreed otherwise or evident from the context.

Where the English wording of these Terms and Conditions is followed by a German legal term set in parenthesis and in italics, the German legal term shall prevail.

Unless the context requires otherwise, the phrases “including”, “including, in particular” and “in particular” shall be interpreted to be non-restrictive and without limitation.

1.2 **Definitions**

The following definitions and other definitions herein shall apply to the Storage Contract, the Terms and Conditions, the Operating Manual and the Storage Specifications. Defined terms are capitalized.

Additional Services	Shall have the meaning as described in Art. 6.3 of these GTC,
Additional Services Fee	Shall mean the fees for Additional Services set out under clause 3.c) of the Storage Contract,
Agreed Storage Prices	Shall have the meaning as described in Art. 16.2 of these GTC,
Confidential Information	Shall have the meaning as described in Art. 15.2 of these GTC,
Current Storage Prices	Shall have the meaning as described in Art. 16.2 of these GTC,
Day Ahead Capacities	shall mean freely allocable Storage Capacities that are offered on short notice periods, i.e. for the next gas day (day ahead),
Delivery Point	shall mean the point where gas is injected to and/or withdrawn from the Storage Facilities as defined in the Storage Specifications, including the Delivery Point SAL,
Delivery Point SAL	shall mean one of the Delivery Points specified as Delivery Point SAL as defined in the Storage Specifications,
Force Majeure	means an extraordinary, unforeseeable external event affecting the performance of the Storage Contract, which cannot be prevented at all or in a timely manner even by applying the reasonably to be expected prudence and technical and economic reasonable means. This also includes natural events, acts of God, natural catastrophes, war, explosion, fire, terrorist attacks, power failure and any related failure of indispensable

	telecommunication connections - e.g. required for data exchange - strike and lockout, statutory provisions, or governmental, judicial, or administrative measures, regardless of their lawfulness,
Gross Calorific Value	shall mean the heating value of Gas ("H _{s,n} " in kWh/m ³) and is defined according to DIN 51857/97,
Higher Regional Court Oldenburg	shall mean the Oberlandesgericht Oldenburg in Lower Saxony in Germany,
Injection Capacity	Shall mean the injection capacity set out under clause 3 of the Storage Contract as further specified under the Storage Specifications,
Interruptible Storage Services	shall mean the Storage Services that a Storage Customer may book on an interruptible basis. The use of the Interruptible Storage Services can be interrupted by SDS according to the Storage Contract,
Maintenance	shall mean measures to perform maintenance (servicing, inspection and repair) and measures to execute installations, alterations, or extensions of equipment in the Natural Gas Storage Facility,
Natural Gas	is a mixture of gaseous hydrocarbons, mainly methane, and other components in a natural state in the ground or which has been recovered together with liquid hydrocarbons,
Neighbouring Network Operator	shall mean the operator of the Neighbouring Gas Network. The relevant neighbouring network operator for a Delivery Point shall be specified in the Storage Specification,
Neighbouring Gas Network	shall mean the gas network connected to the Storage Facilities,
Operational Manual	shall mean the technical requirements of the Storage Facility attached as Annex C to the Storage Contract,
Reference Price	shall mean the monthly border price in €/TJ published by the German Federal Office of Trade, Industry and Export Control (BAFA) at the time of invoicing. The reference price shall be converted to €/ct/kWh and rounded up or down with four (4) decimal places,
SDS	shall mean Statoil Deutschland Storage GmbH,
SSO	shall mean Storage System Operator ("Speicherbetreiber"),
Storage Capacities	Shall mean the Working Gas Capacity, the Injection Capacity and the Withdrawal Capacity

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Storage Contract	shall mean this contract for provision of Storage Services between SDS and the Storage Customer, including its annexes,
Storage Customer	shall mean the customer with whom SDS has entered into a Storage Contract,
Storage Facilities	shall mean the Etzel Gas-Lager,
Storage Fee	Shall mean the for for Storage Services as set out under clause 3 of the Storage Contract,
Storage Period	shall mean the period between the start date for Storage Services as agreed under the Storage Contract and the end date of Storage Services as agreed under the Storage Contract,
Storage Service	Shall have the meaning as described in Art. 6.2 of these GTC,
Storage Specification	shall mean the storage specifications attached as Annex B to the Storage Contract,
Storage Year	shall be the period commencing at 06:00 hours on 01 April of a year and ending on 06:00 hours on 01 April of the following year,
Terms and Conditions or GTC	shall mean these general terms and conditions of SDS and attached as Annex A to the Storage Contract,
TSO	shall mean Transmission System Operator (" <i>Fernleitungsnetzbetreiber</i> "),
Withdrawal Capacity	Shall mean the withdrawal capacity set out under clause 3 of the Storage Contract as further specified under the Storage Specifications,
Working Gas Account	shall mean any of the Working Gas Accounts as defined in Art. 11.4 of these Terms and Conditions and further described in the Storage Specifications,
Working Gas Account MA	shall mean the Working Gas Account MA as defined in Art. 11.4 of these Terms and Conditions and further described in the Storage Specifications,
Working Gas Account SAL	shall mean the Working Gas Account SAL as defined in Art. 11.4 of these Terms and Conditions and further described in the Storage Specifications,
Working Gas Capacity	Shall mean the Working Gas Capacity under clause 3 of the Storage Contract.

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2. SCOPE OF APPLICATION

- 2.1 These Terms and Conditions apply to Storage Contracts of **SDS** regarding access to and storage of the Natural Gas in the Natural Gas Storage Facilities of SDS.
- 2.2 Access to the Storage Facilities is provided based on the Storage Contract and subject to these Terms and Conditions and the applicable annexes.
- 2.3 The integration of any general terms and conditions of the Storage Customer is hereby expressly rejected.
- 2.4 The utilization of Day-Ahead Capacity is subject to supplementary terms and conditions.
- 2.5 These Terms and Conditions shall only apply to businesses (*Unternehmer*) as defined in § 14 of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*). Businesses according to § 14 of the German Civil Code are individual persons or legal entities or partnerships with legal capacity that act in their commercial or professional capacity when they enter into legal transactions with SDS.

3. PUBLISHING OF PRODUCTS

- 3.1 Available Storage Services are published on SDS' website. If a potential Storage Customer is interested in Storage Services that are not published on the website, SDS will examine upon the potential Storage Customer's request whether an offer can be made for the requested Storage Services.
- 3.2 In general, a Storage Contract is concluded for the available Storage Services applying the procedure described hereinafter.

4. STORAGE REQUEST AND CAPACITY ALLOCATION

- 4.1 The potential Storage Customer shall be entitled to make a "non-binding" Storage Services request. In principle, a request must be sent to SDS in writing, whereby an email is sufficient for a request. A contact form, which may be used for such request, is available on SDS' website www.statoilstorage.de.
- 4.2 The request shall then be checked with respect to the parameters as specified on the website. SDS will respond to the Storage Customer's request without undue delay.
- 4.3 The potential Storage Customer is not entitled to claim the allocation of the requested Storage Capacities.
- 4.4 The allocation of Storage Services to several potential Storage Customers will be carried out on the basis of the "first come - first served" principle.
- 4.5 Auction/Tender

SDS shall reserve the right to award available storage capacities after corresponding notice in a public auction/call to tender offers, particularly if the demand is greater than the available capacities. In such event, SDS shall inform about the introduction of the award proceedings and the framework conditions thereof and publish these.

5. CONCLUSION OF CONTRACT

- 5.1 For the technical processing of the Storage Contract, the Storage Contract must be concluded fifteen (15) working days at the latest before the starting date foreseen in the

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Storage Contract. Otherwise, the Storage Customer may first use the Storage Capacities fifteen (15) working days after the conclusion of the contract, irrespective of the foreseen starting date. The necessity of the communications tests shall not be prejudiced hereby.

- 5.2 With the conclusion of a Storage Contract between SDS and the Storage Customer, SDS shall maintain for the Storage Customer the Storage Capacities contracted pursuant to the Storage Contract (for the term of the Storage Contract).
- 5.3 The Storage Customer shall be entitled within the framework of the Storage Contract to use the Storage Capacities maintained by SDS with due regard to the applicable Annexes.

6. **CONTRACT – RIGHTS AND OBLIGATIONS**

6.1 SDS offers to its Storage Customer's products of which the specific features, in particular Storage Capacities are defined in concrete terms in the relevant Storage Specifications.

6.2 The following services shall be provided for the Storage Customers as integral part of the Storage Contract to be rendered by SDS ("**Storage Services**"):

- (a) Injection, storage and withdrawal of Natural Gas quantities in accordance with the booked Storage Capacities
- (b) Processing of nominations and re-nominations
- (c) Matching and confirmation
- (d) Allocation of Natural Gas quantities
- (e) Keeping of Working Gas Accounts.

6.3 To the extent provided by the relevant Storage Contract, the Storage Customer shall also be entitled to make use of Additional Services offered by SDS in connection with their products against valuable consideration. Additional Services shall include in particular:

- (a) Exceeding of Storage Capacities
- (b) Secondary Marketing
- (c) Natural Gas transfer in Storage

6.4 Storage Service limitations due to storage characteristics (*Kennlinien*) and rock-mechanical permit (solution mining permit – *Aussolgenehmigung*) are detailed out in the Storage Contract.

6.5 SDS undertakes towards the Storage Customer to hold available for the agreed service period the Storage Capacities specified in the Storage Contract with due regard to the contract-specific characteristics and render the associated services. The Storage Customer undertakes to pay the Storage Fee specified in the Storage Contract concerned.

6.6 The Storage Customer shall be entitled to use the capacities during the contractually agreed service period based on the Storage Contract specific characteristics. The Storage Customer shall not be entitled to any use extending beyond it, if not agreed otherwise.

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7. FOLLOW OPS PROCEDURE

7.1 Identity of gas

The identity of the Natural Gas in its physical sense (and so the physical identity of the stored gas) needs not be maintained.

The Natural Gas to be stored shall remain the (jointly held) property of the Storage Customer.

7.2 Injection / Withdrawal Capacity

- (a) The Storage Customer shall provide and SDS shall take over the Natural Gas quantities nominated for injection into the Storage Facility at the Delivery Point up to the Injection Capacity. Provision and takeover shall occur simultaneously and with an equivalent thermal value. SDS shall be entitled to store the Natural Gas provided for injection into the Storage Facility with and unseparated from other Natural Gas quantities.
- (b) SDS shall provide and the Storage Customer shall take over the Natural Gas quantities nominated for withdrawal from the Storage Facility at the Delivery Point. Provision and takeover shall occur simultaneously and with an equivalent thermal value up to the Withdrawal Capacity.

7.3 Working Gas

- (a) During the service period, SDS shall store Natural Gas for the Storage Customer in accordance with the Storage Contract in the range between zero and the Working Gas Capacity.
- (b) The Storage Customer shall monitor the stock level in order to prevent an overrun of the Working Gas Capacity or an underrun (= negative stock level).
- (c) With effect to the final gas day of the service period, the Storage Customer shall bring the stock level to the stock level as per the expiry date.

7.4 Transport

- (a) The conclusion of the necessary transmission contracts and issue of transmission nominations to provide the Natural Gas for injection at the Delivery Point or for the onward transmission of the Natural Gas after withdrawal at the Delivery Point are not part of the Storage Contract.
- (b) The Storage Customer is responsible for booking the corresponding transport capacities with the respective network operator at the Delivery Point in order to be able to use the Storage Service.
- (c) All Storage Capacity and volume data of SDS are specified in m³ (working gas quantity) and m³/h (injection and withdrawal rate) and refer to normal cubic meters (Nm³).

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8. SHORT TERM CAPACITY TRADING / SECONDARY MARKET / TRANSFER OF GAS

8.1 Execution of use rights

- (a) The Storage Customer shall be entitled to allow third parties to use the Storage Service. In this case, the Storage Customer shall nevertheless continue to be SDS's contracting partner and shall continue to be obliged to fulfil the obligations resulting from the Storage Contract, in particular the payment of fees, the furnishing of securities, and the operative implementation of the Storage Contract.
- (b) If the operative implementation and thus the exercise of rights under the Storage Contract are carried out directly by a third party upon the Storage Customer's request, the Storage Customer shall be obliged to provide SDS in writing with the third party's necessary contact addresses, data exchange parameters, etc., without undue delay. The Storage Customer shall be liable for the third party's actions as the Storage Customer is for his own.
- (c) In the case that all rights under the Storage Contract are exercised directly by a third party, (b) shall apply.

8.2 Assignment of Capacity / Secondary Market Trading

A Storage Customer has the right to transfer its rights and obligations under a Storage Contract or parts thereof to a third party, subject to the prior written agreement of the transferee and the approval of SDS, which shall not be unreasonably withheld.

8.3 Transfer of Natural Gas

- (a) Where two storage customers of SDS have contracted working gas capacities in the Storage Facility, Natural Gas quantities of one storage customer can also be transferred from its working gas account to the working gas account of the other storage customer if so demanded by these storage customers and within the scope of the contracted Storage Capacities, provided that a transfer of Natural Gas from a Working Gas Account SAL to the Working Gas Account MA shall not be permitted. A transfer between working gas accounts does not constitute an injection or withdrawal.
- (b) In case of a transfer of Natural Gas between a Storage Customer and a storage user who is not a Storage Customer, the Storage Customer shall pay a fee of 0.0005 € ct/kwh for the transferred quantity, with a minimum of €500 per storage day on which Natural Gas is transferred.
- (c) In case of transfer of Natural Gas between two Storage Customers, each shall pay a fee of 0.0005 € ct/kwh per transaction for the transferred quantity with a minimum of €500 per Storage Customer and per storage day on which Natural Gas is transferred.

9. FEES

9.1 Storage Fee

The Storage Customer shall pay to SDS the Storage Fee as defined in the Storage Contract.

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9.2 Service Fee

If use is made of Additional Services, the Storage Customer shall additionally pay the Additional Service Fee as defined in the Storage Contract.

9.3 Adjustment

An adjustment for Storage Fee and Additional Service Fee shall apply for Storage Contracts longer than one year. The adjustment is regulated in the Storage Contract.

9.4 Taxes

- (a) Any fees under the Storage Contract are net fees as defined by the German VAT-Act (*Umsatzsteuergesetz*) and are invoiced plus value added tax at the applicable tax rate as amended, and shall be borne by the Storage Customer. The same shall apply to any Energy tax levied.
- (b) In the event that taxes or other public-law dues levied on the fees as in the Storage Contract, services on which these fees are based, are introduced, abolished, or changed, SDS will adjust the amount of the fees payable by the Storage Customer accordingly with effect to the date on which the introduction, abolishment, or change of the tax or other public-law dues come into effect. This shall apply accordingly to changes of the fees under the Storage Contract on the grounds of national or European legal provisions, administrative acts, or other official orders.

10. BASICS FOR TECHNICAL FRAMEWORK

10.1 Gas Quality/ Co-Ownership

(a) Gross Calorific Value

The conversion of the volumetric units into energy units shall be performed by using the Gross Calorific Value (in kWh/m³) actually measured by the SSO.

SDS shall ensure that the gross calorific value will be determined with calibrated measurement devices (or a similar officially approved method). The so determined Gross Calorific Value shall also be used for invoicing purposes.

(b) Gas Pressure

The Storage Customer shall ensure that the Natural Gas injected at the Delivery Point will be delivered with a gas pressure enabling the Natural Gas to be transferred to the Storage Facility. The Natural Gas pressure specifications for the Storage Facility have been defined in the Storage Specifications.

SDS shall make available to the Storage Customer Natural Gas at the Delivery Point with a gas pressure enabling the Natural Gas to be transferred to the Neighbouring Gas Network. The pressure requirement for the Storage Facility shall be agreed between SDS and the Neighbouring Network Operator.

10.2 Off-Spec

- (a) The Storage Customer shall make available quality compliant Natural Gas at the Delivery Point. The Storage Customer shall inform SDS as soon as possible in case the gas at the Delivery Point is not quality compliant Natural Gas (off spec).

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Such immediate notification by the Storage Customer shall also be made in writing and shall contain the cause, the extent and the expected duration of the quality deviation.

- (b) SDS has the right at any time to fully or partially reject to accept gas at the Delivery Point which is not quality compliant Natural Gas and demand from the Storage Customer to cease injecting non quality compliant gas at the Delivery Point. Upon receipt of the notification according to (a), SDS shall inform the Storage Customer whether and to which extent SDS will accept non quality compliant gas.
- (c) If and to the extent that SDS exercises its right to reject non quality compliant gas at the Delivery Point according to (b), SDS shall be released from its obligation according to (d) to the extent necessary.
- (d) SDS shall make available quality compliant Natural Gas at the Delivery Point. SDS shall inform the Storage Customer as soon as possible in case the gas at the Delivery Point is not quality compliant gas. Such immediate notification by SDS shall also be made in writing and shall contain the cause, the extent and the expected duration of the quality deviation.
- (e) The Storage Customer has the right at any time to fully or partially reject to accept gas at the Delivery Point which is not quality compliant gas. In case the gas at the Delivery Point is not quality compliant gas the Storage Customer shall inform SDS immediately whether and to which extent it is prepared to accept non quality compliant gas.
- (f) The Storage Customer's right of rejection according to (e) shall not apply if and to the extent the quality deficiency of the gas at the point of withdrawal has been caused by the previous Storage Customer's delivery of non-quality compliant gas at the Delivery Point or the Neighbouring Network Operator has accepted the non-compliant gas as quality compliant.

10.3 Technical Requirements

- (a) For technical reasons minimum injection rates and minimum withdrawal rates are necessary at SDS' Storage Facility. The Storage Customer's right to utilize its Storage Capacities shall be subject to the minimum injection rates and minimum withdrawal rates defined in the Storage Specification. The above mentioned minimum injection rates or minimum withdrawal rates, respectively, shall not affect the Storage Customer's right to book Storage Capacities below these minimum rates. In case the Storage Customer's nomination together with the accumulated nominations of all other Storage Customers for any hour fall short of the minimum injection rate or minimum withdrawal rate, respectively, SDS has the right to reject the nominations of all Storage Customers for said hour. However, SDS shall use reasonable endeavours to enable a Natural Gas flow in said hour.
- (b) The Storage Customer's right to utilize its Storage Capacities shall be subject to the flow reversal times and start-up times described in the relevant Storage Specification.
- (c) Injection or withdrawal, respectively, may not be possible during the whole year. Times for limitations have been indicated in the relevant Storage Specification.

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- (d) The Storage Customer's right to utilize its Storage Capacities shall be subject to the limitations by the injection curve or withdrawal curve laid down in the relevant Storage Specification.
- (e) The parties shall inform each other without undue delay of variations in the requirements for quality and/or pressure ratios pursuant to the Storage Specifications of which they become aware and which are relevant for the execution of the Storage Contract.
- (f) If the Storage Customer's non-compliance conduct with the Storage Contract results in impairments in the Storage Facility systems, the safety of the operations or the rights of third parties can be impacted in the reasonable and prudent estimation of SDS, SDS shall be entitled to reduce or interrupt the access to the Storage Facility to the extent this eliminates the irregular condition. Moreover, SDS may demand the establishment of technical measures at the expense of the Storage Customer to the extent necessary to observe the contractual provisions. If the technical measures are necessary as a result of conduct not complying with the Storage Contract on the part of the Storage Customer and further Storage Customers for the same Storage Facility, SDS shall divide the costs for establishing these technical measures in proportion to the amount of respectively maintained working gas quantities among the affected Storage Customers which have to bear these costs.

11. OPERATION

11.1 Communication

- (a) The communication process to exchange relevant information shall be agreed upon between SDS and the Storage Customer.
- (b) Information in the event of restrictions on the operation of the Storage Facility or a hazard may be exchanged by telephone and must be confirmed in writing if so demanded by one of the parties.
- (c) The Storage Customer has sole responsibility for providing the communication facilities which he requires.

11.2 Nomination

- (a) The Storage Customer shall nominate to SDS the Natural Gas quantities (injection) to be taken over by it, as well as the Natural Gas quantities (withdrawal) to be provided by SDS in accordance with the provisions of the Operating Manual. SDS shall process the injection or withdrawal according to the Storage Customer's nomination at the relevant Delivery Point.
- (b) The parties shall inform each other forthwith if they are not in the position, temporarily or over a longer period, to inject or withdraw the nominated gas quantities at the particular Delivery Point.

11.3 Allocation

SDS shall determine for each Storage Customer the Natural Gas quantities injected or withdrawn at the Delivery Point and allocate the same to the Working Gas Account of the relevant Storage Customer based on the nominations in accordance with the allocation procedure set out in the Operating Manual.

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11.4 Working Gas Account

- (a) SDS keeps two Working Gas Accounts per Storage Customer. The Working Gas Accounts are kept in kWh.
 - (i) The Working Gas Account SAL is established for Natural Gas which is injected into the Storage Facilities at the Delivery Point SAL.
 - (ii) The Working Gas Account MA is established for Natural Gas which is injected into the Storage Facilities at all other Delivery Points.
 - (iii) Natural Gas can be withdrawn from both Working Gas Accounts at any Delivery Point, provided that Natural Gas credited to the Working Gas Account SAL may be withdrawn at a Delivery Point SAL only.
- (b) The Natural Gas quantities in kWh which are accepted by SDS from the Storage Customer for injection at the Delivery Point shall be credited to the Working Gas Account of the Storage Customer as specified above. The natural gas quantities in kWh withdrawn by the Storage Customer at the Delivery Point shall be deducted from the Working Gas Account of the Storage Customer for such Delivery Point. The Storage Customer may transfer Gas "in-storage" from the Working Gas Account MA to the Working Gas Account SAL.
- (c) The Working Gas Accounts shall be balanced by the end of the Service Period. This is the case, if each Working Gas Account shows a working gas balance of zero (0) and the Storage Facility of SDS no longer holds natural gas quantities of the Storage Customer.
- (d) The Storage Customer shall achieve (c) by either withdrawing its gas and/or transferring it to one or more other Storage Customers according to Article 8.3 hereunder. In case the Storage Contract has been terminated with immediate effect, SDS shall grant the Storage Customer a mutually acceptable time period to comply with the above withdrawal obligation.
- (e) In case the Storage Customer has not been able to bring a Working Gas Account to zero (0) by the end of the Storage Period due to an event of Force Majeure or because of a reason within SDS's responsibility, it shall have the right to fully withdraw or transfer its gas within a mutually agreed and reasonable time period after the termination of the Storage Contract.
- (f) In case the Storage Customer has not withdrawn its gas by the end of the Storage Period according to the Storage Contract or by the end of the grace period, the title of the remaining gas shall be transferred to SDS. SDS shall pay for the gas 90 % of the Reference Price minus disbursements (including but not limited to cost for storage, withdrawal, transport and agents). SDS reserves the right to claim damages resulting from e) and f).

12. Maintenance

12.1 Maintenance

SDS shall have the right to perform Maintenance (service, inspection and repair) of the Storage Facilities (including extension or modification). If SDS is unable to fulfil its obligations according to the Storage Contract due to the Maintenance, SDS shall be released from such obligations.

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SDS shall inform the Storage Customer about Maintenance works reasonably prior to the commencement of these works. Planned Maintenance will be published on SDS' website in advance. If prior notification is not possible because of urgent measures SDS shall inform the Storage Customer as soon as possible.

SDS shall endeavour to restrict Maintenance to the necessary degree and align those with Neighbouring Network Operators while assuring the highest possible availability of the maintained Storage Facilities.

12.2 **Tariff reduction**

If the interruption of Storage Services due to Maintenance exceeds 14 calendar days in a Storage Year, the Storage Customer shall be entitled to a tariff reduction as defined in the Storage Contract.

A tariff reduction shall only apply to firm capacity booking. SDS is entitled to interrupt and suspend Storage Services for Interruptible Storage Services at any time without tariff reduction.

13. **INSURANCE, INVOICING AND PAYMENT**

13.1 **Invoicing**

- (a) SDS shall in advance render an invoice to the Storage Customer showing the Storage Fee calculated for the following month according to the Storage Contract. The Storage Customer shall pay the invoiced amount before the first day of the month to which the invoice refers.
- (b) The fees for Additional Storage Services or any other fee to be paid by the Storage Customer shall be invoiced to the Storage Customer in the month following the month in which the Additional Services were provided. The Storage Customer shall pay the invoiced amount within ten (10) days after receipt of the invoice.
- (c) Timely payment shall be deemed made when the corresponding invoice amount has been credited to SDS' bank account.
- (d) The invoiced amount has to be paid without any reductions, except for obvious mistakes, whether the invoice or parts of it are in dispute.
- (e) If a payment has not been made on time, SDS, irrespective of whether any delay has occurred, has the right to charge interest for each day payment is overdue. Said interest shall be calculated in accordance with the 3-month EURIBOR of the European Central Bank as quoted on the due date, plus five (5) percentage points. The payment of interest shall be without prejudice to further claims of SDS in case of a late payment.
- (f) The Storage Customer has the right to dispute an invoice within three (3) weeks after the receipt. Except in the case of obvious errors (such as arithmetical errors), a dispute does not entitle the Storage Customer to reduce the invoiced amount or to refuse payment. In case a Storage Customer's dispute has been justified, SDS shall credit the incorrectly invoiced amount to the Storage Customer, including

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interest. This repayment shall be offset against the invoiced amount for the next Month.

13.2 Insurance

- (a) Upon request of SDS, the Storage Customer shall provide proof of liability insurance prior to the conclusion of a Storage Contract that is commensurate with the risk it assumes under the Storage Contract. In case the Storage Customer terminates the insurance at any time during the term of the Storage Contract for any reason whatsoever, the Storage Customer shall inform SDS thereof immediately in writing. If the Storage Customer is not able to provide proof [of risk coverage], SDS has the right to terminate the Storage Contract. The Storage Customer shall inform SDS immediately by written notice about any relevant changes to its liability insurance.
- (b) As a rule, the liability insurance shall be deemed to be sufficient if it covers the Storage Customer's risk for the entire term of the Storage Contract. For the damages to be covered the generally recognised provisions for liability insurance of insurance companies approved by the German Federal Financial Supervisory Authority (*BaFin*) shall apply.

14. SECURITY DEPOSIT

- (a) Upon request of SDS, the Storage Customer shall provide an irrevocable, unconditional and directly enforceable guarantee for an adequate amount in order to secure the payments which are due according to the Storage Contract. Said guarantee shall contain a waiver of the benefit of discussion and further contain a waiver of the benefit of voidability or a waiver to offset a claim which guarantees payment on first demand (Credit Support). The guarantee shall be issued either by a bank with a long-term rating of at least A3 according to Moody's Investors Service, Inc. or A- according to Standard & Poor's Rating Services, where the lower of the two ratings shall be applicable. Alternatively, the guarantee can be issued by a German bank belonging to the German savings bank sector or the association of co-operative societies. The guarantee may be issued unlimited or limited in time. In the latter case it shall at least be valid until two (2) months after the last day of the Storage Period as agreed in the Storage Contract. If SDS has not received a requested guarantee by the first day of the Storage Period as agreed in the Storage Contract, SDS has the right to terminate the Storage Contract with immediate effect as laid down in Art. 22 hereunder. SDS shall be entitled during the term of the Storage Contract to request from the Storage Customer a reasonable increase of the security deposit amount.

14.2 Upon termination of the Storage Contract and full performance of all obligations by the Storage Customer, SDS shall return the guarantee to the Storage Customer.

14.3 Subject to SDS' examination and prior written agreement, the guarantee according to this article may be substituted by an equal financial security.

15. DATA COLLECTION / AUTOMATED DATA PROCESSING AND DATA TRANSFER

15.1 Automated Data Processing and Transfer

SDS shall be authorized to collect and store automatically the contract data of the Storage Customers required for contract operations and use the same for the purpose of contract

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operations. SDS shall be entitled to transfer such contract data to the adjacent network operator or any other third party as far and as long as the same is required for proper operations of the contract concerned.

The Storage Customer hereby gives its consent to the automated processing of data by SDS or an enterprise commissioned by SDS in accordance with the provisions of data protection law.

15.2 Confidentiality

- (a) The parties shall treat the content of the Storage Contract and all information which they receive or received in connection with the Storage Contract ("**Confidential Information**") subject to number (b), as secret and confidential and not disclose it to third parties unless the party concerned has agreed to it in writing beforehand. The parties undertake to use the confidential information for no other purpose than the performance of the Storage Contract.
- (b) Either party shall have the right to disclose confidential information received by the other party without written consent by the latter
 - (i) to an company affiliated by majority provided the latter is bound to secrecy in the same manner,
 - (ii) to its legal representatives, tax or legal advisors, banks and insurance companies to the extent such disclosure is needed for the proper performance of contractual duties, and these persons or companies have themselves agreed beforehand to treat the information as confidential or are bound to secrecy by law due to their profession.

In addition to that, every party shall have the right to disclose confidential information received by the other party without the written approval by the latter to the extent such confidential information

- (i) is justifiably already known to the receiving third party on the date on which it received such information from the other party,
 - (ii) is already in the public domain or becomes available to the public in any other manner than through the action or omission by the party, or
 - (iii) is required to be disclosed by a party due to a statutory provision or a court order or order or request by a public authority. In such case the disclosing party shall notify the other party without delay.
- (c) The obligation regarding confidentiality shall remain in effect– beyond the termination of the Storage Contract for a Period of sixty (60) calendar months.
 - (d) Article 6a of the German Energy Industry Act (*Energiewirtschaftsgesetz, EnWG*) shall remain unaffected.

16. RETURN OF STORAGE CAPACITIES

- 16.1 The Storage Customer may at any time declare in writing and bindingly to SDS that he wishes to return the contracted Storage Capacities or parts thereof, both in regard to the amount of the Storage Capacities/rates and the Storage Period.

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- 16.2 SDS shall offer these storage capacities in its own name to third parties. The offer shall be made on the basis of the then applicable Terms and Conditions and the storage prices (hereinafter referred to as “**Current Storage Prices**”) of SDS, but at least the storage prices agreed in the Storage Contract with the Storage Customer (hereinafter referred to as “**Agreed Storage Prices**”).
- 16.3 If the Storage Customer has contracted storage bundles, SDS shall only be obliged to take back and market said storage bundles in accordance with the preceding paragraphs if the Storage Customer returns complete storage bundles. A return and marketing of individual parts of a storage bundle shall be solely at SDS’ discretion.
- 16.4 If the Storage Customer is interested in returning storage capacities so that they can be offered by SDS to third parties on the basis of Current Storage Prices although the Current Storage Prices are below the Agreed Storage Prices or – for example due to variable components of the annual storage fees – at least could be below the Agreed Storage Prices in the period from the return to the end of the Storage Period originally agreed with the Storage Customer for the returned storage capacities, the Storage Customer shall inform SDS of his interest to do so in writing.
- Any return of storage capacities shall require a separate mutual agreement between the Storage Customer and SDS regarding the modalities of marketing including the reimbursement of differences. The agreement shall be in writing.
- If an agreement is reached between the Storage Customer and SDS, SDS shall offer the returned storage capacities to third parties on the basis of the then applicable Terms and Conditions and the Current Storage Prices as well as in accordance with the agreement reached with the Storage Customer.
- 16.5 If a Storage Contract is concluded with a new customer on returned storage capacities, SDS declares that it is willing to terminate the Storage Contract for the corresponding storage capacities with the Storage Customer and will adjust the individual withdrawal and injection curves of the Storage Customer accordingly. The Storage Contract with the Storage Customer shall otherwise remain unaffected.
- 16.6 If the Storage Contract with the new customer on returned storage capacities is concluded at storage prices which are below the Agreed Storage Prices, the Storage Customer shall pay the resulting difference to SDS. This obligation shall apply to the period from the termination of the Storage Contract with the Storage Customer on the returned storage capacities to the end of the Storage Period originally agreed with the Storage Customer for the returned storage capacities.
- 16.7 If no Storage Contract for returned storage capacities has been concluded with a new customer within two (2) months from receipt of the written declaration of return, the Storage Customer shall be entitled at any time to withdraw his declaration of return in whole or for certain storage capacities.
- 16.8 SDS shall give first priority to marketing existing available storage capacities and only second priority to marketing returned storage capacities. In the event that several Storage Customers declare their desire to return storage capacities, the principle shall apply that the storage capacities will be marketed in the order of SDS’ receipt of the written declaration to return, or the time of the conclusion of the agreement between the Storage Customer and SDS (“first come – first served”).

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17. REVOCATION OF LONG TERM CONTRACT CAPACITY / ANTI – HOARDING IN CASE OF NO USE

17.1 Rights and Obligations SSO

- (a) Should the Storage Customer not use the contracted Storage Capacities for a consecutive period of (12) storage months and should SDS receive booking requests from others customers, SDS shall request the Storage Customer to offer the unused capacities to third parties to prevent an improper hoarding of Storage Capacity. Storage Capacities shall be considered not used if
- (i) the contracted Working Gas Capacity is not used (vacancy) or
 - (ii) no injections or withdrawals are made (idle Storage) and this is probably not usual in the market.

The evidence that it has not been customary in the market shall be provided by SDS.

- (b) If the Storage Customer fails to meet such request within two (2) calendar months or should it be unsuccessful in secondary trading within this period of time, this shall be deemed a declaration by the Storage Customer that he wished to return his contracted capacities and SDS shall be permitted to withdraw the unused Storage Capacities from the Storage Customer.

17.2 Rights and Obligations Customer

This shall not apply when, in response to the invitation of SDS and within the said period, the Storage Customer provides cogent written arguments to the effect that he still needs the Storage Capacities concerned so as to meet existing contract commitments or exercise existing contract rights.

SDS shall in particular accept a cogent argument by the Storage Customer to the effect that the Working Gas Capacities are being held as a reserve to safeguard contract commitments.

18. FORCE MAJEURE

If one of the parties is unable to perform its contractual obligations due to Force Majeure, it shall be released from its contractual obligations for the term and to the extent that the Force Majeure constitutes an obstacle to performance; this shall not apply in the case of being prevented from meeting a payment obligation. The other party shall be released from its contractual counter-obligations to the extent and for as long as the party is prevented from meeting its obligations due to Force Majeure.

The party affected by the Force Majeure event shall notify the other party without delay of the reasons and prospective duration - provided this information is available - of the Force Majeure. It shall endeavour, using all technically feasible and economically reasonable measures, to restore the conditions required for meeting its contractual obligations as promptly as possible.

In the event that due to an occurrence constituting Force Majeure, one of the parties is prevented from or substantially impaired in meeting its contractual obligations for a term of three (3) successive months as from the commencement of the Force Majeure event, the other party shall be entitled to give notice of termination of the Storage Contract. The

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notice of termination shall become effective upon receipt of the written notice of termination.

19. INTERRUPTIONS

19.1 In the event that the TSO makes use of its rights and obligation according to Art. 16 EnWG and takes certain measures as defined in Art. 16 EnWG, SDS as SSO will follow and comply with the instructions of the TSO accordingly. In such case SDS is not liable for any interruptions and losses of the Storage Customer. The Storage Customer will direct any enquiries and claim directly towards the TSO.

19.2 SDS is entitled to interrupt the Storage Services at any time without prior notice if necessary and justified, especially in order

- (a) to prevent direct danger to personnel, the facilities or the environment, or
- (b) to prevent damages to other Storage Customers or to prevent disruptions of SDS's/third parties facilities, or
- (c) to prevent Natural Gas from bypassing or damaging the metering equipment upon injection or withdrawal.

19.3 After an interruption of the Storage Facility operations shall resume gradually, if relevant, with due regard to operational and technical supply circumstances. Injection and Withdrawal Capacity shall again be available when the respective capacity with due regards to the Storage Specifications / Operational Manual can be used again by the Storage Customer. The Working Gas Capacity shall be considered as available again if the Working Gas Capacity can be used again and the filling level of the Storage Facility corresponds at least to the status on the date of the interruption or restriction of the Storage Facility operations. If a refilling is necessary, this shall be made free of charge for Injection Capacity for the Storage Customer by SDS.

20. LIABILITY

20.1 The parties shall be liable to one another for losses due to injury to life, body or health unless the party itself, its legal representatives, servants or vicarious agents have acted neither with willful misconduct nor negligently.

20.2 In the event of a breach of substantive contract obligations the parties shall be liable to one another for loss of property and pecuniary damage unless the party itself, its legal representatives, servants or vicarious agents have acted neither with wilful misconduct nor negligently; the liability of the parties for loss of property and pecuniary damage caused by slight negligence is limited to the damages that are usually reasonably foreseeable at the time of concluding the contract. A loss of EUR 2.5 million for loss of property and EUR 1 million for pecuniary damage can typically be expected in transactions of this nature.

20.3 The parties shall be liable to one another for loss of property and pecuniary damage in the event of a breach of non-substantive contract obligations unless the party itself, its legal representatives, servants or vicarious agents have acted neither with wilful misconduct nor grossly negligent. In the event of loss of property and pecuniary damage caused by gross negligence, the liability of the parties themselves and for their legal representatives and senior servants or vicarious agents is limited to the damages that are usually reasonably foreseeable at the time of concluding the contract. The liability of the parties

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for so-called ordinary servants is limited to EUR 1.5 million for loss of property and EUR 500,000 for pecuniary damage caused by gross negligence.

- 20.4 Without prejudice to Paragraphs 2 and 3, SDS shall only be liable for loss of property and pecuniary damage which the Storage Customer suffers as a consequence of an interruption or other irregularity in the take-over or transfer of Natural Gas, based on contract or tort, if the loss of property is caused by wilful misconduct or negligence and the pecuniary damage is caused by wilful misconduct or gross negligence on the part of SDS, its legal representatives, servants or vicarious agents, the existence of wilful misconduct or negligence in the case of loss of property and of wilful misconduct or gross negligence in the case of pecuniary damage being rebuttable presumed.
- 20.5 If the sum of the claims for damages of all Storage Customers exceeds the maximum limit of EUR 10 million per loss event, the claim of the individual Storage Customer will be reduced pro rata based on the ratio the sum of all claims for damages to the said maximum limit.
- 20.6 This shall not affect the liability of the contract parties under mandatory provisions of the Liability Act and other legal regulations.
- 20.7 Paragraphs 1 to 6 also apply in favour of the legal representatives, employees, servants and vicarious agents of SDS.

21. ASSIGNMENT BY SDS

SDS shall be entitled with the Storage Customer's consent to assign as a whole its rights and duties arising from the Storage Contract to a third party. Such assignment shall be deemed a legal succession. The consent to the legal succession shall be granted if and when the third party guarantees a proper performance of the contractual obligations.

If rights and duties of the Storage Contract are assigned by SDS to an affiliated company as defined by Art. 15 German Stock Corporation Act which is capable of fulfilling the Storage Contract, no consent shall be needed. SDS shall inform the Storage Customer on the assignment without delay.

22. TERMINATION FOR CAUSE

- 22.1 The Storage Contract may be terminated with immediate effect for an important cause (*wichtiger Grund*) by either party. An important cause shall particularly exist, if
- (a) Breach of contractual provisions by either party despite prior written warning by the other party;
 - (b) Default in payment by the Storage Customer of the Storage Fee charged or a significant part thereof for two successive Storage months and failure to pay the amount due within the time limit set in the reminder.
 - (c) Default in payment by the Storage Customer over a period of over two (2) storage months.
 - (d) Default in payment of the charged Storage Fee at an amount reaching the Storage Fee to be paid for two (2) storage months.

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- 22.2 In addition to that the parties may terminate the Storage Contract with immediate effect if in relation to the other party the opening of insolvency proceedings is dismissed for lack of assets.

Every party shall inform the other party forthwith in writing on the dismissal of the opening of insolvency proceedings for lack of assets.

- 22.3 A termination for important cause shall have no impact on the rights and duties of the parties that were created prior to such termination. The notice of termination shall state the reason of termination as well as the effective date of contract termination. § 314 para 3 German Civil Code shall remain unaffected.

23. **MISCELLANEOUS**

23.1 **Written Form Requirement**

Amendments and supplements to the Storage Contract and its termination require the written form in order to be valid. The same shall apply to the waiver of the written form requirement.

23.2 **Change of Storage Contract Terms by SDS**

- (a) The provisions of the Storage Contract and thus of integral parts of the Storage Contract (e.g. the Terms and Conditions) are based on the legal and other, in particular technical, framework conditions applicable at the time of contract conclusion. If changes or amendments of the Storage Contract and its integral parts become necessary to meet new applicable and binding requirements (for SDS) such as

- (i) National and international legislation and/or
- (ii) The Cooperation Agreement (*Kooperationsvereinbarung*) among gas network operators and/or
- (iii) Requirements by national or international courts or authorities and/or
- (iv) Generally accepted rules of technology and/or
- (v) Requirements of the Neighbouring Network Operator / TSO at a Delivery Point

or to close any gap of the Storage Contract that may have been caused by it, SDS shall be entitled to change in a reasonable manner and acceptable for the Storage Customer the Storage Contract including its integral parts under reserve of the equivalence interest of performance and counter performance and under consideration of the Storage Customer's interests. A unilateral increase of the Storage Fee by SDS shall be excluded on the basis of this provision.

SDS shall notify the Storage Customer of any planned change and the date of its effectiveness minimum six (6) weeks prior to the planned effective date unless excluded by law. SDS is not bound by this grace period in cases where SDS itself has to implement such changes in less than six (6) weeks. The textual form (email) shall be sufficient for this purpose.

- (b) The correction of any obvious spelling or calculation mistakes shall not be deemed a change of the Storage Contract and can be done at any time.

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23.3 Contract Review Following a Change in Circumstances

If the technical, commercial and/or legal preconditions under which the Storage Contract provisions including these Terms and Conditions, its annexes and the Storage Fees have been agreed undergo a fundamental change, and if consequently one of the parties can no longer be reasonably expected to uphold the Storage Contract provisions because the intentions of the parties aimed at a fair balance of their reciprocal commercial interests are no longer fulfilled, then that party may demand that the Storage Contract provisions be amended in line with the changed circumstances.

If agreement on an amendment of the Storage Contract provisions is not reached within three (3) months, then the arbitration panel shall decide. The claim to the new Storage Contract provisions shall exist commencing from the time when the party claiming the amendment first demanded the new Storage Contract provisions from the other party, invoking the changed circumstances.

23.4 Governing Law, Settlement of Disputes

(a) The Storage Contract and these Terms and Conditions shall be governed by the laws of Germany unless the application of the law of a foreign country is mandatory under any of the provisions of the Introductory Law to the German Civil Code (EGBGB). Intergovernmental agreements and the United Nations Convention on contracts for the international sale of goods (UN CISG) shall not apply even if they are transposed into German law.

(b) The parties shall endeavour to settle disputes through negotiation. Should negotiations fail the following shall apply:

All disputes arising in connection with this contract or its validity shall be finally settled in accordance with the Arbitration Rules of the German Institution of Arbitration (DIS) without recourse to the ordinary courts of law. The place of arbitration is Oldenburg. The language of the arbitral proceedings is English.

The arbitration panel consists of three arbitrators, one of whom acts as chairman. The chairman must be qualified to be a judge.

The arbitration panel is constituted by the party who seeks the arbitration designating the matter in dispute and nominating one arbitrator and inviting the other party in writing to nominate the other arbitrator and by the nominated arbitrators then selecting the chairman. If the other party fails to comply with the order to nominate an arbitrator within one month or if the arbitrators do not select their chairman within one month from the second arbitrator being nominated, either party may apply to the President of the Higher Regional Court Oldenburg to propose the second arbitrator or chairman respectively. The proposal is binding upon the parties.

23.5 Severability

If, at any time, any provision of the Storage Contract and this Terms and Conditions is or becomes illegal, invalid or unenforceable, in any respect, under the law of any relevant jurisdiction, neither the legality, validity nor enforceability of the remaining provisions of the Storage Contract and this Terms and Conditions shall be in any way affected or impaired thereby. The Parties undertake to replace any illegal, invalid or unenforceable

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provision with a legal, valid and enforceable provision which comes as close as possible to the invalid provision as regards its economic intent.