

Service Terms and Conditions
for the Acceptance of the Return Delivery of
Storage Capacities

(As of February 07, 2020)

1. Acceptance of the Return Delivery of Storage Capacities

- 1.1. The acceptance of the return delivery of storage capacities by VGS shall require the conclusion of an individual service contract. VGS shall be under no obligation to conclude such a contract.
- 1.2. VGS shall exclusively accept the return delivery of bundled storage capacities by their customers in full or in part at a ratio between working gas volume, injection and withdrawal rate to be selected at the customer's discretion. VGS shall not accept the return delivery of individual storage capacities (unbundled storage capacities).
- 1.3. The scope of the storage capacity regarding which the return delivery shall be accepted shall be determined by the amount of the capacities regarding which the return delivery shall be accepted (working gas volume; injection and withdrawal rate) and by the service period for which the return delivery of the storage capacities shall be accepted ("Capacity Tranche"), whereby this amount shall be indicated by the customer in that regard.

In that context, the customer shall be entitled to determine several Capacity Tranches for the return delivery, whereby

- it shall not be permitted that the service periods of individual Capacity Tranches overlap, and
- one Capacity Tranche, except the first Capacity Tranche, shall consist of complete (one or more) storage years.

Each Capacity Tranche shall then be – as total capacity – the subject of a separate marketing process in accordance with item 3, which VGS shall perform regarding this total capacity.

- 1.4. VGS shall accept the return delivery of storage capacities subject to the condition precedent of the minimum fee determined by the customer in accordance with item 3.4 being generated by VGS in the scope of a marketing process performed by VGS with respect to the storage capacities to be retransmitted in each case.
- 1.5. In the case the minimum fee determined by the customer is not obtained in the marketing process, VGS shall examine on the customer's request whether a minimum fee reduced at the corresponding rate by reducing the total capacity indicated in the Service Contract may be generated on the basis of the offers submitted in the scope of the marketing process.

For that purpose, the customer shall determine the steps of the reduction in percent (percentage) as well as the lower limit of the reduction of the total capacity (minimum capacity) in the Service Contract.

VGS shall reduce the total capacities and the minimum fee until

- the fee that may be generated by the marketing result for the currently relevant portion of the total capacity exceeds the portion of the minimum fee corresponding to it, which shall also be considered as occurrence of the condition precedent pursuant to item 1.4; or
- the minimum capacity communicated by the customer is undercut.

1.6. The fact that the minimum fee for the total capacity or the minimum fee for a total capacity reduced in accordance with item 1.5 is not generated in the scope of the respective marketing process and as a result no contract is concluded with a third party shall be considered as non-occurrence of the condition precedent pursuant to item 1.4.

In the event that the minimum fee is generated in the scope of the marketing process but VGS is not able to market the storage capacities to be retransmitted as a whole, this shall have no effect on the occurrence of the condition precedent; regarding the occurrence of the condition precedent, only the generation of the minimum fee determined by the customer in relation to the Capacity Tranche to be retransmitted in each case shall be authoritative.

1.7. In the event of a successful outcome of the marketing activities, the customer shall be required to adjust their working gas account by the corresponding volume by the commencement date of the service period for which the return delivery of respective storage capacities was accepted by VGS. In the event that the Customer fails to adjust their working gas account, the provisions on post-contractual clearance of the working gas account as per the General Terms and Conditions of VGS in force at the time of the request shall apply *mutatis mutandis*.

1.8. The storage capacities to be retransmitted shall be marketed with a priority ranking below that of primary capacities VGS may have available.

2. Informal Request and Conclusion of the Service Contract

2.1. The customer may send a non-binding informal request by e-mail to sales@vng-gasspeicher.de for the purpose of the conclusion of a service contract regarding the acceptance of the return delivery of storage capacities. The following information

shall be contained in the request:

- 2.1.1. contract number of the contract between VGS and the customer whose storage capacities in full or in part should be subject to a return delivery ("Existing Contract");
- 2.1.2. the location of the storage facility;
- 2.1.3. quantities of the storage capacities regarding which a return delivery should be accepted (working gas volume, injection and withdrawal rate);
- 2.1.4. the service period for which a return delivery of storage capacities should be accepted;
- 2.1.5. the marketing period during which VGS should perform the marketing activities and;
- 2.1.6. the minimum fee at which the storage capacities are to be marketed by VGS.

In the case that the return delivery of the respective storage capacities shall be made by means of several Capacity Tranches, the information of the customer required in accordance with the aforementioned items 2.1.3 to 2.1.6 shall be indicated separately in each case for each Capacity Tranche, whereby the requirements of item 1.3 shall be observed.

- 2.2. Upon receipt of a non-binding informal request in accordance with item 2.1, VGS shall review within a period of five (5) working days¹ whether the marketing by VGS is possible within the specified marketing period/(s) or whether there are already requests from other customers whose capacities shall be marketed with a higher priority ranking in accordance with item 2.3.
- 2.3. VGS shall process the requests received in the order in which VGS receives the requests for the acceptance of return deliveries.
- 2.4. In the event that it is impossible for VGS to respond to the request within the time limit of five (5) working days, regardless of the reason for that, VGS shall notify the customer thereof in textual form indicating the respective reason.
- 2.5. VGS shall review the customer's request carefully and in a non-discriminatory fashion. In the event that after reviewing the request VGS finds that it is possible for VGS to perform the marketing process(es) within the marketing period indicated by the customer, VGS shall send the customer the already signed standard service

¹ "Working day" shall mean every calendar day from Monday to Friday, except the bank holidays in the German federal state of Saxony in accordance with the Saxon law regarding bank holidays [*Sächsisches Feiertagsgesetz*].

contract in duplicate by post and in advance via e-mail. The sending of said contract via email shall be considered to be a binding offer. VGS shall be bound by this offer for four (4) working days after sending said via e-mail. To accept the binding offer according to the aforementioned sentence 3, the customer shall sign the contract received via e-mail and return it to VGS via e-mail within the commitment period. Receipt of this e-mail by VGS shall be decisive for the acceptance of the offer in due time.

Subject to the effective conclusion of the service contract according to the aforementioned sentence 2 to 6, the *customer* shall sign one of the copies of the contract he received by post and return it immediately to VGS by post. The exchange of the documents by post is for reasons of documentation.

- 2.6. In the event that VGS finds after a careful and non-discriminatory review that they are not able to perform the marketing process within the marketing period due to the existence of higher-ranking customer requests, VGS shall provide the customer with a statement of reasons for the rejection in textual form.

3. Marketing of the storage capacities and marketing process

- 3.1. VGS shall market the storage capacities, or the particular Capacity Tranche, respectively, within a maximum period of one (1) month (marketing period). The commencement and the expiry date of such marketing period shall be individually agreed between the parties and contractually concluded in the service contract. In that context, the marketing period should be determined in a way that a period of ten (10) days is allowed for between the expiry date of the marketing period and the commencement date of the service period regarding the storage capacities to be taken back.

The customer shall be permitted to submit to VGS at any time, but at least ten (10) working days before the beginning of the marketing period agreed upon between the parties, an enquiry regarding the redetermination of the marketing period, in an informal way via email to sales@vng-gasspeicher.de. VGS shall process such an enquiry within five (5) working days and grant their consent to the redetermination of the marketing period in textual form, unless storage capacities of VGS or other customers will already be marketed within the required period, and unless there are other reasons that prevent a postponement of the marketing period. In that case that there are several enquiries of customers regarding the alternative marketing period, any previously received enquiries shall be given priority.

- 3.2. Within the marketing period, VGS shall once in their own name and subject to the General Terms and Conditions of VGS currently in force offer on the market to third parties as primary capacities the storage capacities returned (“Standard Procedure”). It shall be up to VGS to select the marketing process as well as the way of placing the product on the market; this shall apply in particular to the decision whether the storage capacities to be retransmitted will be marketed as one or in the form of several products or whether they will be integrated into an product together with other storage capacities of VGS.
- 3.3. VGS shall inform the customer in due time by e-mail, at least three (3) days in advance, of the commencement of the marketing process and the way of performing third the process and shall explicitly indicate the period of time during the process in which parties may submit binding offers regarding the respective product (period for the submission of binding offers). Upon receipt of this notice of commencement by the Customer, the marketing process indicated in the notice shall be relevant for the fulfilment of the condition according to item 1.4.
- 3.4. With the informal request aimed at the conclusion of a service contract regarding the acceptance of the return delivery of storage capacities in accordance with number 2.1 the customer shall determine a minimum fee for the storage capacities to be retransmitted and VGS must not fall below this fee when marketing the storage capacities. The customer shall be entitled to redetermine this minimum fee once and no later than two (2) hours before the period for the submission of binding offers communicated in accordance with item 3.3. The redetermination of the minimum fee shall be made by a unilateral declaration of the customer vis-à-vis VGS via e-mail to sales@vng-gasspeicher.de, and the time at which VGS receives this e-mail shall determine whether the time limit indicated in the aforementioned sentence 2 was observed.
- 3.5. When accepting the binding offer regarding the conclusion of a service contract about the acceptance of the return delivery of storage capacities, the customer shall determine the amount of the percentage and the minimum capacity in accordance with item 1.5. The customer shall be entitled to determine zero (“0”) for the amount of the percentage as well as the minimum capacity. In this case, no further examination in accordance with item 1.5 shall take place in the case the minimum fee determined by the customer is not generated.

The customer shall be entitled to redetermine the percentage and the minimum capacity once, but not later than two (2) hours before the commencement of the period for the submission of binding offers communicated in accordance with item 3.3. The redetermination of the percentage and the minimum capacity shall be made by an unilateral declaration of the customer vis-à-vis VGS via email to sales@vng-gasspeicher.de, whereby the time at which VGS receives this email shall be authoritative for complying with the time limit indicated in the foregoing sentence.

- 3.6. VGS shall promptly send the customer a notice indicating the outcome of the marketing process and consequently also about whether the condition precedent has been fulfilled or not.

In the light of Section 6a of the German Energy Economy Law [Energiewirtschaftsgesetz, EnWG], an obligation for designating the third party with which VGS concludes a storage contract (if applicable) regarding the storage capacities to be retransmitted shall not exist; any liability of VGS in accordance with Section 384, subsection 3 of the German Commercial Code [Handelsgesetzbuch, HGB] shall be excluded in that context.

- 3.7. Upon the customer's request, it shall be possible that VGS performs a new marketing attempt regarding the identical capacities. The aforementioned regulation regarding the marketing of the storage capacities shall apply with the necessary modifications. In connection with this, the customer shall declare vis-à-vis VGS by email the intention to perform a new marketing attempt as well as the desired starting and end date of the second marketing period. VGS shall examine without delay after the receipt of the enquiry whether a new marketing may be performed in the desired period and shall again agree upon the commencement and the termination of this marketing period individually with the customer.
- 3.8. VGS shall endeavor to offer the storage capacities to third parties, also in deviation from the Standard Procedure, if opportunities arise and to obtain from the third parties corresponding offers concerning the storage capacities regarding which a return delivery shall be accepted. However, the customer shall not have a right to marketing services of VGS of that kind.

If, in the scope of such endeavors, a third party submits to VGS an offer regarding the conclusion of a storage contract governing storage capacities of the customer regarding which a return delivery shall be accepted, VGS shall present to the customer the terms and conditions of the respective offer without delay. If the customer declares their agreement with the terms and conditions of this offer in

writing, VGS shall accept the offer of the third party and conclude a corresponding storage contract with the third party. The conclusion of that storage contract shall then be considered as occurrence of the condition precedent in accordance with item 1.4 regarding the storage capacities that are covered by the contract.

If the storage capacities regarding which a return delivery shall be accepted are marketed only proportionately within the scope of the conclusion of a contract that was accomplished as described above, the Capacity Tranches defined in the service contract shall be reduced by the storage capacities marketed successfully. In other respects, the storage contract shall continue to apply without any restrictions.

4. Adjustment of the Contract and Retransmission, early Termination of the Retransmission upon early Termination of the Storage Contract with the third Party

4.1. With the successful marketing, the customer shall retransmit to VGS the storage capacities marketed to the third party/parties. VGS shall adjust the Existing Contract between VGS and the customer by reducing the scope of the services by the quantities of the storage capacities to be retransmitted as agreed in the Service Contract. The injection and withdrawal characteristics regarding the remaining storage capacities shall be re-adjusted. The amount of the service fee shall remain unaffected by this and will continue to apply without restriction.

4.2. For the retransmission of the storage capacities, the customer who retransmits them shall receive a remuneration that shall correspond to the service fees (without value added tax) agreed upon between VGS and the third party/parties regarding the respective storage capacities minus the service fee plus the statutory value added tax agreed upon in accordance with item 5 regarding the acceptance of the return delivery of the storage capacities or the marketing service of VGS, respectively.

The term “service fee” within the meaning of sentence 1 above, shall exclusively cover fees that the third party shall pay to VGS for the provision of the respective storage capacities within the service period agreed upon on the basis of the storage contract concluded with VGS concerning the storage capacities regarding which a return delivery shall be accepted.

4.3 In the case that a storage contract concluded between VGS and a third party regarding the retransmitted storage capacities should – before the expiration of the term of the contract –

- i. be terminated in a legally effective way through the extraordinary termination of

the storage contract by VGS as a result of a delay in payment of the third party regarding service fees agreed upon;

- ii. be terminated in a legally effective way through the extraordinary termination of the storage contract by VGS as a result of the rejection of an application for the opening of insolvency proceedings filed regarding the third party due to the lack of assets; or
- iii. not be continued or be terminated in a legally effective way, respectively, due to the inability of the third party to pay as a result of a decision of an insolvency administrator,

the retransmission of the respective storage capacities from the customer to VGS shall also be terminated (early) at the time of the termination of the storage contract; in this way, the payment obligation of VGS in accordance with the foregoing section (2), sentence 1 shall also be cancelled proportionately as of the time of the termination of the storage contract. In such a case, VGS shall accordingly adjust the Existing Contract by reintegrating the respective storage capacities into the Existing Contract as well as the injection and the withdrawal characteristic.

In the aforementioned context, VGS shall undertake to inform the customer without delay if VGS gains knowledge of circumstances that might result in a termination, in accordance with lit. i.) to iii.) above, of a storage contract concluded between VGS and a third party regarding the storage capacities retransmitted by the customer to VGS.

5. Service Fee

- 5.1. For the service of marketing the storage capacities in accordance with the standard procedure, VGS shall charge a fee amounting to 1% of the capacity fee, for the storage capacities, but at least €7,000.00 for each marketing process performed.

In the case that the marketing in accordance with the standard procedure is not successful, the service fee shall amount to €7,000.00.

A case in which the marketing is not successful within this meaning shall have occurred if the storage capacities provided for the marketing – while complying with the conditions determined for that purpose in item. 1.4 and 1.5 – may not be marketed as Total Capacity or proportionally reduced capacity, respectively.

- 5.2. In the case of a new marketing in accordance with the standard procedure attempt regarding the identical Capacity Tranche in accordance with item 3.7, VGS shall charge for the service of marketing the storage capacities a service fee amounting to

1% of the capacity fees for the storage capacities obtained in the scope of the respective marketing, but at least €3,500.00 for each marketing process performed.

In the case that the new marketing attempt regarding the identical Capacity Tranche is not successful, the service fee shall amount to €3,500.00.

A case in which the marketing is not successful within this meaning shall have occurred if the storage capacities provided for the marketing – while complying with the conditions determined for that purpose in item 1.4 and 1.5 – may not be marketed as Total Capacity or proportionally reduced capacity, respectively.

5.3. In the case that the storage capacities are marketed in accordance with item 3.8, VGS shall also charge a service fee amounting to 1% of the capacity fees obtained in that context.

5.4 VGS shall issue an invoice to the customer regarding the service fee after the marketing process has been completed. The General Terms and Conditions of VGS in force at the time of the request shall apply mutatis mutandis with respect to the invoicing.
