

**Service Contract**  
**for the Acceptance of the Return Delivery of**  
**Storage Capacities**  
(“Service Contract”)

between

**VNG Gasspeicher GmbH**  
**Maximilianallee 2**  
**04129 Leipzig**

– hereinafter referred to as "VGS" –

and

**[Company name]**  
**[Street]**  
**[Post code] [town/city]**

- hereinafter referred to as the "Customer" -

– hereinafter collectively referred to as the "Contracting Parties" –

## § 1 Object of the Contract

- (1) The object of the Service Contract is the acceptance of the return delivery of the Customer's storage capacities by VGS.

Upon conclusion of the Service Contract,

- the "Service Terms and Conditions for the Acceptance of the Return Delivery of Storage Capacities, as of February 07, 2020" (Service Terms and Conditions for the Acceptance of the Return Delivery of Storage Capacities“)

as well as the documents in the currently valid version, i.e.:

- Annex “Tranches and Minimum Fees”
- Annex "Capacities and Storage Fee" to contract No. [...] (Annex "Capacities and Storage Fee")

shall become an integral part of this contract.

- (2) VNG herewith explicitly objects to the incorporation of the Customer's general terms and conditions or comparable regulations.

## § 2 Acceptance of the Return Delivery of Storage Capacities

VGS shall accept the return delivery of the capacity tranche(s) defined in number 1 of the Annex “Tranches and Minimum Fees” to the Contract No. [...] regarding storage capacities of the storage facility [...] existing between the Contracting Parties (“Existing Contract”) for the duration of the service period of the respective capacity tranche. The Contracting Parties agree that each capacity tranche defined in number 1 of the Annex “Tranches and Minimum Fees” shall in each case be the the maximum bundled storage capacity for which the return delivery shall be accepted (hereinafter referred to as “Total Capacity”), which will be the subject matter of a marketing process to be performed by VGS regarding this Total Capacity and which may be reduced to a minimum capacity as well as in accordance with the regulations in the following section (7).

- (2) VGS shall accept the return delivery of the capacity tranche(s) indicated in section (1) subject to the condition precedent of the minimum fee determined by the Customer in accordance with section (6) being generated by VGS in the scope of the marketing process performed by VGS with respect to respective the storage capacities to be retransmitted.

- (3) In the event of a successful outcome of the marketing activities, the Customer shall undertake to adjust their working gas account of the Existing Contract by the quantity of the return delivery of the capacities accepted by VGS by the respective commencement date of the period determined according to section (1).

In the event that the Customer fails to adjust their respective working gas account, the General Terms and Conditions of VGS in force at the time of the request (cf. number 2.1 of the Service Terms and Conditions for the Acceptance of the Return Delivery of Storage Capacities) shall apply mutatis mutandis.

- (4) The marketing of the capacity tranche(s) in accordance with section (1) shall be performed during the marketing period indicated in number 1 of the Annex “Tranches and Minimum Fees” for the respective capacity tranche.

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 indicated in number 1 of the Annex “Tranches and Minimum Fees” for the respective capacity tranche an enquiry regarding the redetermination of the marketing period, in an informal way via email to [sales@vng-gasspeicher.de](mailto: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.

- (5) VGS undertakes to inform the Customer by Email three (3) days in advance of the commencement of the respective marketing process and the way of performing the marketing process as well as to indicate to the Customer explicitly that period of time during the process in which third parties may submit binding offers regarding the respective product concerning the storage capacities to be redelivered (period for the submission of binding offers). The parties agree that upon receipt of this notice of commencement regarding the marketing process by the Customer, the marketing process indicated in the notice shall be relevant for the fulfilment of the condition according to § 2, section (2) respectively section (7).
- (6) The minimum fee for the marketing of the storage capacities regarding which the return delivery shall be accepted (if applicable), which the Customer has determined for the Total Capacity of the respective capacity tranche upon the conclusion of this Service Contract, shall be designated in number 2 of the Annex “Tranches and Minimum Fees”.

The Customer shall be entitled to redetermine the minimum fee determined in each case once, but no later than two (2) hours before the commencement of the period of the respective marketing procedure for the submission of binding offers communicated in accordance with § 2, section (5)

The redetermination of the minimum fee determined in each case shall be made by a unilateral declaration of the Customer vis-à-vis VGS by Email to [sales@vng-gasspeicher.de](mailto:sales@vng-gasspeicher.de), and the time at which VGS receives this Email shall determine whether the time limit indicated in the aforementioned sentence was observed.

In the case the minimum fee was redetermined, VGS shall update the Annex "Tranches and Minimum Fees". The updated Annex shall then supersede the former Annex "Tranches and Minimum Fees".

- (7) In the case the minimum fee determined by the Customer with respect to the Total Capacity is not obtained in the respective marketing process, VGS shall examine whether a minimum fee reduced at the corresponding rate by reducing the Total Capacities may be generated on the basis of the offers submitted in the scope of the marketing process.

In this context, the Contracting Parties agree that VGS will proportionally reduce the Total Capacities offered in the marketing process by steps of percent determined by the customer (percentage) until the minimum capacity determined by the Customer is undercut (if applicable); in doing so, the minimum fee determined by the Customer regarding the Total Capacity shall be reduced proportionally at the same rate (reduced minimum fee).

The percentage, which the Customer has determined upon the conclusion of this Service Contract regarding the Total Capacity of the respective capacity tranche, as well as the lower limit for the reduction of the Total Capacity (minimum capacity) shall be designated in number 2 of the Annex "Tranches and Minimum Fees".

VGS shall reduce the Total Capacity and the minimum fee by the percentage determined by the customer until

- the fee that may be generated by the marketing result for the currently relevant portion of the Total Capacities exceeds the portion of the minimum fee corresponding to it, which shall also be considered as occurrence of the condition precedent pursuant to § 2, section (2) above; or
- the minimum capacity determined by the Customer is undercut.

The aforementioned procedure is described in number 3 of the Annex “Tranches and Minimum Fees” separately for the respective capacity tranche.

Furthermore, 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 § 2, section (5). 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](mailto: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

In the case the minimum fee was redetermined, VGS shall updated the Annex “Tranches and Minimum Fees”. The updated Annex shall then supersede the former Annex “Tranches and Minimum Fees”.

- (8) VGS shall once in their own name and subject to the General Terms and Conditions of VGS for the Storage of Gas at the Underground Storage Facilities operated by VGS currently in force offer on the market to third parties as primary capacities the storage capacities to be retransmitted (Standard Procedure). In other respects, no. 3 of the "Service Terms and Conditions for the Acceptance of the Return Delivery of Storage Capacities" shall apply, unless this Service Contract provides otherwise.
- (9) The fact that the minimum fee for the respective Total Capacity or the minimum fee for a Total Capacity reduced in accordance with § 2, section (7) (if applicable) is not generated in the scope of the marketing process and as a result no contract is concluded with a third party shall be considered regarding the respective Total Capacity as non-occurrence of the condition precedent pursuant to § 2, section (2) or section (7), respectively.

If the minimum fee is generated in the marketing process without VGS being able to entirely market the storage capacities to be retransmitted (storage capacities partially marketed), 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.

VGS shall promptly notify the Customer of the outcome of the respective marketing process and consequently about whether the condition precedent has been fulfilled or not, and – in the case that the condition precedent has occurred – of the amount of the capacity fees obtained within the scope of the marketing process regarding the

respective storage capacities. In other respects, number 3.6, sentence 2 of the Service Terms and Conditions for the Acceptance of the Return Delivery of Storage Capacities shall apply.

- (10) 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.
- (11) 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 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 contract shall then be considered as occurrence of the condition precedent in accordance § 2, section (2) and section . (7) 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 section (1) resp. in number 1 of the Annex "Tranches and Minimum Fees" shall be reduced by the storage capacities marketed successfully.

For this purpose VGS shall updated the Annex "Tranches and Minimum Fees". The updated Annex shall then supersede the former Annex "Tranches and Minimum Fees". In other respects, the storage contract shall continue to apply without any restrictions.

### **§ 3 Adjustment of the Contract and Retransmission, early Termination of the Retransmission upon early Termination of the Storage Contract with the third Party**

- (1) With the successful marketing, the customer shall retransmit to VGS the storage capacities marketed to the third party/parties. VGS shall adjust the 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.

For this purpose VGS shall update the Annex “Tranches and Minimum Fees”. The updated Annex shall then supersede the former Annex “Tranches and Minimum Fees”. The amount of the service fee shall remain unaffected by this and will continue to apply without restriction.

In other respects, the storage contract shall continue to apply without any restrictions.

- (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 § 4 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.

- (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.

#### **§ 4 Service Fee**

- (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 § 2, sections (2) and (7) – may not be marketed as Total Capacity or proportionally reduced capacity, respectively.

- (2) In the case of a new marketing in accordance with the standard procedure attempt regarding the identical Capacity Tranche (cf. § 2 section (10) of this contract), 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 § 2, sections (2) and (7) – may not be marketed as Total Capacity or proportionally reduced capacity, respectively.

- (3) In the case that the storage capacities are marketed in accordance with § 2, section (11) VGS shall also charge a service fee amounting to 1% of the capacity fees obtained in that context.

In other respects, number 5 of the Service Terms and Conditions for the Acceptance of the Return Delivery of Storage Capacities shall apply.

## **§ 5 Severability Clause**

In the event that individual or several provisions of this service contract and/or the parts of the contract that are of the essence are or become invalid or unenforceable, this shall not affect the validity of the contract and the parts of the contract that are of the essence. The Contracting Parties undertake to substitute the invalid and/or unenforceable provisions by provisions that are valid and/or enforceable and that reflect to the greatest possible extent the economic purpose of the invalid and/or unenforceable provisions. The aforementioned rule shall apply mutatis mutandis in the case of gaps in the contract.

## **§ 6 Final Provisions**

- (1) In the case that a dispute should arise between the Contracting Parties about whether the condition precedent in accordance with § 2, section (2) and (7) has occurred or not or whether and at which amount the customer shall receive a fee in accordance with § 3, section (2), VGS shall be entitled to furnish the proof through the attestation of an auditor named by the Customer. In the event the auditor does not confirm the declarations previously made by VGS vis-à-vis the Customer in accordance with § 2, section (9), VGS shall bear the auditor costs, otherwise the Customer shall bear the respective costs.
- (2) This Service Contract shall include all agreements between the Contracting Parties; there are no subsidiary agreements or these shall be cancelled hereby and no subsidiary agreements have become a basis for the conclusion of this Contract.

- (3) The cancellation, changes to or amendments of this Contract shall only be valid when made in writing. This shall also apply to the requirement of the written form as such. The Parties agree that every cancellation of the requirement of the written form not made in writing or implied shall be invalid.
- (4) The place of jurisdiction for all disputes arising from or in connection with this Contract shall be Leipzig.
- (5) Two copies of this Contract shall be executed, of which each Contracting Party shall receive one copy.

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