

APPENDIX 5

Agreement between
[name of the Storage Customer]
and
Gas Storage Denmark A/S
for the provision of fundamental data re-
porting services
under REMIT

Agreement ID: KON-[XXX]- [XXX]

This agreement for the provision of fundamental data reporting services under REMIT ("**Agreement**") has been entered by

Name: Gas Storage Denmark A/S
Address: Tonne Kjaersvej 65
Postcode and town: DK-7000 Fredericia
Company registration no.: 29 85 12 47
("**GSD**")

and

Name: [XXX]
Address: [XXX]
Postcode and town: [XXX]
Country: [XXX]
VAT no.: [XXX]
EIC code (16 characters): [XXX]
("**Storage Customer**")

(GSD and the Storage Customer individually referred to as a "**Party**" and collectively referred to as the "**Parties**").

WHEREAS

- A. Article 8 of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency ("**REMIT**") and the Commission Implementing Regulation (EU) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency ("**Implementing Acts**") set out the rules for the reporting of fundamental data as defined in article 2(1) of the Implementing Acts ("**Fundamental Data**") amongst others to the Agency for the Cooperation of Energy Regulators ("**ACER**");
- B. ACER is developing the ACER REMIT Information System which is the platform established to collect data according to the Implementing Acts. ACER has published several reference documents for the reporting of Fundamental Data ("**Supporting Documents**"), including "Manual of procedures on transaction and fundamental data reporting" ("**MoP**"), which covers the procedures, standards and electronics for reporting and "Requirements for the registration of Registered Reporting Mechanisms (RRMs)" ("**RRM Requirements**"), which defines the technical and organisational requirements to be fulfilled by third parties reporting on behalf of Storage Customers or storage system operators like GSD;
- C. In order to comply with the Fundamental Data reporting obligation under Article 9(7) of the Implementing Acts ("**Reporting Obligation**"), GSD has concluded an agreement with Gas Infrastructure Europe AISBL ("**GIE**"). The agreement with GIE enables GSD on behalf of the Storage Customer to report Fundamental Data relating to the Storage Customer's usage of GSD's Storage Facilities under Article 9(9) of the Implementing Acts ("**Additional Reporting Services**"). The start date of the Reporting Obligation is 7 April 2016 in accordance with Article 12(2) of the Implementing Acts;
- D. GIE has developed Technical Documentation ("**Technical Documentation**") providing information necessary for the implementation of Fundamental Data reporting services under REMIT. GIE fulfils the RRM Requirements and is registered as Registered Reporting Mechanism since 16 February 2016. GIE has agreed to offer Fundamental Data reporting services to the GSD under the terms of a separate agreement and in accordance with REMIT, the Implementing Acts, the Supporting Documents and the latest procedures, standards and electronic formats published by ACER, as amended from time to time;
- E. GSD agrees to report the required Fundamental Data to ACER through GIE at the request of the Storage Customer; and
- F. This Agreement constitutes a data reporting agreement for the purpose of Article 9(9), 10 and 11 of the Implementing Acts.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. REPORTING SERVICES

1.1 At the request of the Storage Customer, GSD has requested, appointed and authorised GIE to report to ACER the following Fundamental Data on behalf of the Storage Customer in respect of the latter's own reporting obligations of Fundamental Data to ACER for the use of GSD's storage facilities operated as one group and shall apply the reporting frequency as set out below:

- For the group of storage facilities, the amount of gas that the Storage Customer has stored at the end of the gas day, no later than the following working day.

1.2 The Additional Reporting Services remain at all times subject to change as a result of further regulatory developments and ACER guidance.

2. OBLIGATIONS AND RESPONSABILITIES OF GSD

2.1 GSD will provide GIE with all information according to the Technical Documentation, including the Fundamental Data referred in Clause 1, which is required for GIE to conduct the Additional Reporting Services, in a complete, accurate and timely manner.

2.2 The GSD shall set up an IT system and organisation compliant with the Supporting Documents and Technical Documentation. In particular, the IT system shall comply with ACER's requirements regarding security, confidentiality and reliability. In case of change to the MoP, GSD shall modify its IT system accordingly along with the reasonable instructions of GIE and of the revised Technical Documentation in order to comply with ACER's new requirements.

GSD shall use its IT system to provide GIE with the Fundamental Data who will submit such data to ACER via GIE's IT system according to the Implementing Acts, the Supporting Documents and the Technical Documentation.

2.3 GSD shall ensure that any person acting on behalf of GSD is properly authorised to do so and acquainted with GIE's IT system prior to use, and any subsequent changes to it.

GSD shall ensure that adequate security measures are in place on its IT system and within its organisation to prevent unauthorised access or use.

2.4 GSD shall not be in breach of this Agreement if, and to the extent that, the performance of its obligations is prevented or rendered impossible by a breach of this Agreement or other act or omission by the Storage Customer.

2.5 GSD designates the following persons to be the contact persons in relation to this Agreement:

- Contact person 1: Mads Vejlbj Boesen
- E-mail address: mvb@gasstorage.dk
- Tel. No (international format): +45 30674727

- Contact person 2: Iliana Nygaard
- E-mail address: iny@gasstorage.dk
- Tel. No (international format): +45 61243403

GSD may at any time amend its own contact person by written notice to the Storage Customer.

3. OBLIGATIONS AND RESPONSABILITIES OF THE STORAGE CUSTOMER

3.1 The Storage Customer designates the following person to be the contact person in relation to this Agreement:

- Contact person: [XXX]
- E-mail address: [XXX]
- Tel. No (international format): [XXX]

The Storage Customer may at any time amend its own contact persons by written notice to GSD.

4. DATA RESPONSIBILITY

4.1 GSD shall be responsible for the completeness, accuracy and timeliness of Fundamental Data, in accordance with Article 11(2) of the Implementing Acts.

4.2 Nevertheless the Storage Customer shall take reasonable steps to verify the completeness, accuracy and timeliness of the Fundamental Data, in accordance with Article 11(2) of the Implementing Acts, via GSD Online.

4.3 GSD shall not be held responsible for any information directly sent by the Storage Customer to ACER.

4.4 If GSD is unable to transfer all or some of the Fundamental Data to GIE in due time, then GSD will provide the missing data as soon as reasonably practicable.

4.5 If GSD becomes aware of an error in the data, GSD will use reasonable efforts to rectify any such error and re-submit the relevant correct data.

5. TERM OF THE AGREEMENT AND TERMINATION

5.1 Subject to Clause 5.2, the Agreement shall become effective on the date of this Agreement and shall remain in effect for an indefinite term.

5.2 The Parties may terminate this Agreement at any time by giving at least three (3) months prior written notice.

5.3 Either Party may terminate this Agreement if the other Party is in breach of a material provision of this Agreement, and the other Party has not taken any corrective action(s) to remedy such a breach within one (1) month as from the receipt of the written notification by the requesting Party, specifying the breach and requiring its remedy.

5.4 On termination of this Agreement for any reason:

- GSD will stop providing the Additional Reporting Services;
- For a period of twelve (12) months after termination, the transferred information will be accessible to the Storage Customer during that period. After that period, the Storage Customer may request to delete all data related to the Storage Customer from GIE's IT system;

5.5 Any termination shall be without prejudice to any rights of the terminating Party to claim damages, interests or costs from the defaulting Party subject to the limitations in Clause 7.

5.6 Termination shall not affect rights or obligations accrued at the time of termination. Any provision of this Agreement which by nature is intended to survive termination shall remain binding until such rights or obligations have been satisfied or released.

6. FEES

6.1 The Storage Customer shall not pay any fee for the Additional Reporting Services.

6.2 Each Party shall bear any and all costs or expenses incurred by that Party in connection with the performance of its rights and obligations under this Agreement.

7. LIABILITY

7.1 Parties shall, at all times, perform their obligations under this Agreement with reasonable care, provided that no Party shall be required to do, or cause to be done, anything which is contrary to any law, rule or regulation or that such Party is otherwise prevented from doing by any law, rule or regulation.

7.2 The liability of each Party shall be limited to direct and proven damages which result from breaches of obligations under this Agreement and shall be limited for each calendar year to 6,000 EUR. The cap does not apply in case of gross negligence, willful misconduct, or fraud.

7.3 Neither Party shall be liable to the other Party for any loss of profit, loss of business, loss of goodwill, or any other indirect incidental, special or consequential damages of any kind arising from a breach of their obligations under this Agreement.

8. FORCE MAJEURE

If any Party is prevented from performing any of its obligations under this Agreement as result of a Force Majeure Event as defined hereunder, such obligation(s) shall be suspended for as long as that Force Majeure Event continues. If the Force Majeure Event continues for a period longer than nine (9) months then either Party may give notice to the other Party at any time while the Force Majeure Event continues beyond that period to unilaterally terminate the Agreement. Under no circumstances shall either Party be liable to the other Party for any failure to perform its obligations as result of a Force Majeure Event, provided however, where possible, that the affected Party gives prompt notice to the other Party of its failure to perform its obligations, and uses its reasonable efforts to mitigate the effects of such causes.

A Force Majeure Event is any event which occurs due to reasons outside of a Party's control (including, but not limited to, any natural, facilities, political or other cause and whether in respect to a third party service provider, affiliate or otherwise) and which cannot be overcome by reasonable diligence or efforts.

9. CONFIDENTIALITY AND DISCLOSURE

9.1 The Parties shall consider the following information to be confidential:

- Any Fundamental Data, though GSD/GIE shall be entitled to use such data as deemed required to perform the Additional Reporting Service;
- Other information indicated as confidential by the providing Party.

This confidential information can be disclosed by GSD and GIE without the consent of the Storage Customer if required to be disclosed by law, regulation or a court order. The same also applies if the confidential information is disclosed to any of GSD's and GIE's professional advisers.

9.2 Any data or information provided pursuant to this Agreement shall be used by the receiving Party only for the intended purposes and in connection with this Agreement and for no other purpose without the prior written consent of the disclosing Party.

10. MISCELLANEOUS

10.1 Each Party shall provide reasonable assistance to the other Party in complying with any request for further information from ACER under this Agreement.

10.2 **Assignment.** This Agreement, nor the rights and obligations under it, may not be assigned or transferred by a Party without the prior written consent of the other Party.

10.3 **No waiver of rights.** No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent is given in writing and signed by the Party claimed to have waived or consented. The waiver by either Party of any right hereunder, or of the failure to perform or of a breach by the other Party, shall not be deemed to be a waiver of any other rights hereunder or of any other breach or failure by the other Party, whether of a similar nature or otherwise.

10.4 **Severability.** If any term or provision in this Agreement is held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision or part thereof shall to the extent be deemed not to form part of this Agreement but the validity and enforceability of the remainder of this Agreement shall not be affected.

10.5 **Amendments.** This Agreement may not be amended or changed except by the written agreement between the Parties.

10.6 **Notices.** Any notice in connection with this Agreement shall be in writing and delivered by e-mail or registered post. A notice shall be effective upon receipt and shall be deemed to have been received (i) at the time of delivery, if delivered by registered post or (ii) at the time of transmission if delivered by e-mail, in either case, where delivery occurs outside working hours on working days, notice shall be deemed to have been received at the start of working hours on the next following working day.

11. GOVERNING LAW AND DISPUTE RESOLUTION

11.1 This Agreement, including disputes regarding its existence or validity and disputes regarding this arbitration clause and the applicable arbitration procedure, is governed by Danish law, irrespective of any conflict of laws rules, which could otherwise result in the application of the laws of another jurisdiction to the dispute.

11.2 Any dispute arising out of, or in connection with, this Agreement, including disputes regarding its existence or validity and disputes regarding this arbitration clause and the applicable arbitration procedure shall be finally settled by arbitration in accordance with the Rules of Procedure of the Danish Institute of Arbitration (Danish Arbitration) in force at the time of the commencement of such proceedings.

11.3 The place of arbitration will be in Copenhagen, Denmark. The arbitration proceedings shall be conducted in the English language.

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Stenlille, / / 202~~21~~

[XXX], / / 202~~321~~

Gas Storage Denmark A/S:

[company name]:

Rune H. Gjermundbo
Head of ~~Sales and Planning~~Business Operations

[Name and title of employee]