

*Tender  
for negative FC*



**Tender  
For Negative Flow Commitments  
In the Gas Business Year (GBY) 2009/2010**

*GRTgaz Deutschland GmbH*

**Berlin, 31st August 2009**

**Modified 16<sup>th</sup> September 2009**

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## **Tender for negative flow commitments of *GRTgaz Deutschland GmbH* to increase the freely allocable capacities pursuant to Section 6 Paragraph 3 Clause 2 Number 1 Gas Network Access Ordinance (GasNZV) in the GBY 2009/2010**

### ***Preamble:***

GRTgaz Deutschland GmbH (GRTgaz D) plans to join the market area of NetConnect Germany (NCG) in the gas business year (GBY) 2009/2010. GRTgaz D is obligated pursuant to Section 6 Paragraph 3 Clause 2 Number 1 GasNZV to conclude contracts with third parties, which ensure particular flows or are otherwise suitable to increase the available freely allocable entry capacities, provided that the calculation of transport capacities yields the result that capacities can not, or not to a sufficient degree, be offered on a freely allocable basis within the whole network because of physical supply shortfalls.

With GRTgaz D joining the market area of NCG, it will be possible to import more gas into the southern German region of this market area than before. In the event that such gas is increasingly exited or stored in the northern German region of the market area, while at the same time very little gas is used in the South (summer scenario), this would result in a congestion, because currently the existing network has been optimized only for transports from the North to the South. In such particular flow situations, the task of the requested flow commitments (FC) is to transport gas out of the southern region of the market area of NCG, which allows the creation of a reverse flow from Northern Germany towards the MEGAL system. In doing so, additional import capacities of GRTgaz D could be offered in the amount of the FC as freely allocable capacities within the whole market area of NCG, which would otherwise only be shown as capacities subject to allocation restrictions.

GRTgaz D therefore addresses tenderers of negative FC to provide binding tenders for the lots of negative FC offered on the Internet home page [www.grtgaz-Deutschland.de](http://www.grtgaz-Deutschland.de). Participation in this tender is possible on condition of conclusion of a single General Contract, which sets out the tendering procedure, the award of contract and the utilization of negative FC. In addition, it is necessary to conclude an Individual Contract, which sets out the concrete negative FC (megawatt-hour rate, lot size). The conclusion of an Individual Contract is required for each lot.

The tender documents consist of:

1. General Contract
2. Individual Contract (and annexes)

You are requested to provide us with a binding offer by sending us the tender documents by **25<sup>th</sup> September 2009** at the latest. The offer needs to consist of the completed and signed tender documents

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(General Contract & Individual Contract(s)) and must contain either a firm megawatt-hour rate [(€/MWh)] or an index-based megawatt-hour rate

Mr Kobbe of GRTgaz is happy to answer any questions you might have relating to our tender for negative FC at the address provided below.

GRTgaz Deutschland GmbH

Zimmerstraße 56

10117 Berlin

Tel.: +49 30 7261 9049 24

Fax.: +49 30 7261 9049 99

e-mail: [albert.kobbe@grtgaz-deutschland.de](mailto:albert.kobbe@grtgaz-deutschland.de)

DVGW-Marktpartner-Number: 9870098400004

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# **General Contract**

## **Negative Flow Commitments**

between

**GRTgaz Deutschland GmbH**

Zimmerstrasse 56, 10117 Berlin

- in the following referred to as “**GRTgaz D**” -

and

**Tenderer XYZ**

*[Address]*

- in the following referred to as “**Tenderer**” -

Each hereinafter referred to as “**Party**” and collectively as “**Parties**”

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## Section 1 Subject matter of the contract and description of services

(1) General Contract Negative Flow Commitments (“**FC**”)

This “General Contract Negative Flow Commitments” (“**General Contract**”) sets out the rights and responsibilities of GRTgaz D and the tenderer in addition to the “Individual Contract to the General Contract Negative Flow Commitments” (“**Individual Agreement**”), which is to be concluded on the lots offered by the tenderer. It is possible to conclude several individual contracts. An individual contract needs to be concluded for each lot which receives award of contract.

(2) The General Contract sets out, in particular:

- a. The tendering procedure,
- b. Admissible offers for negative FC,
- c. The award of contract,
- d. The utilization procedure of negative FC.

(3) Negative FC

This tender for negative FC relates to the gas business year (“**GBY**”) 2009/2010, more precisely from 1<sup>st</sup> October 2009, 06:00 hours CEST to 1<sup>st</sup> October 2010 06:00 hours CEST. The requested negative FC comprise the net increase of exited gas into bordering EU member states with effect on the MEGAL transport system.

In order to provide negative FC, the tenderer must dispose of firm or interruptible exit capacities at the relevant point and of firm or interruptible entry capacity with the adjacent foreign transport companies. If the negative FC is provided by a reduction of entry flow from the Czech Republic or from Austria, the tenderer must dispose of firm entry capacity at the relevant point, which is in the respective temperature range always utilized (nominated) in the corresponding amount. **If the negative FC is provided by an increase of exit flow to France, GRTgaz D will provide the tenderer with the respective exit capacity in Medelsheim for the requested period and in the requested amount free of charge. The conditions for day-ahead-UIOLI entry capacity from the adjacent TSO GRTgaz are published on [www.grtgaz.com](http://www.grtgaz.com).** A net supply of gas quantities by the tenderer is not subject matter of the FC.

- (4) The provision and utilization of the actual gas flows within a defined time interval, that means the provision of rendered services, shall occur at the agreed exit point(s).
- (5) The tenderer shall nominate in its offer the balancing group operator, into whose balancing group the respective capacities are entered at the agreed exit points. The relevant balancing group shall not be a balancing group for capacities subject to allocation restrictions.
- (6) The balancing group manager shall carry out all required nominations. The tenderer shall make respective arrangements with the nominated balancing group manager (among other things, on the utilization of FC).

## Section 2 Tendering Procedure

- (1) The conclusion of this General Contract shall be a prerequisite for the participation in the tendering procedure of GRTgaz D by submitting a tender (in the form of an Individual Contract)
- (2) The tenderer shall send two copies of a completed and signed General Contract to GRTgaz D in order to conclude a General Contract, unless the tenderer is already Party to such a General Contract with GRTgaz D. GRTgaz D shall return one countersigned copy to the tenderer.
- (3) The fully completed and signed tender documents shall be sent to GRTgaz D in order to effectively submit a binding tender. The tender documents each consist of this General Contract and the pertaining Individual Contract(s). Tenders shall only be submitted by exclusively using the tender documents by GRTgaz D.
- (4) The tender shall be received by GRTgaz D within the period during which tenders may be submitted, which means by **25th September 2009 15:00 hours CEST**. The period during which tenders may be submitted is a cut-off period. Tenders that are submitted belatedly or incompletely will not be considered in the tendering phase. Deviations from the pre-set Individual Contract are not admissible. The tenderer shall be responsible for the correctness and completeness of its data. The option of handing in missing data or documents shall be excluded. GRTgaz D shall have the sole responsibility to assess whether the tender corresponds to the description of services.
- (5) A change to the tender within less than a year shall not be admissible subject to Section 12.
- (6) The tenderer shall be bound to its tender(s) up to and including 31st October 2009.

## Section 3 Admissible tenders of negative FC

- (1) Possible Points  
Possible exit points for the tendering of FC are: Waidhaus (reverse), Oberkappel and Medelsheim. The net increase of exit flows can be achieved also by a reduction of entry nominations in Waidhaus and Oberkappel.
- (2) The tenderer shall submit its tender for the whole GBY 2009/2010 as temperature-dependent annual product within the tendering period.
- (3) The tenderer shall be entitled to offer FC in consideration of the lot size for one or more of the following temperature ranges for the whole GBY 2009/2010 each: :

Temperature range 1:	$\leq 0^{\circ}\text{C}$
Temperature range 2:	from $0^{\circ}\text{C}$ to $\leq 8^{\circ}\text{C}$
Temperature range 3:	$> 8^{\circ}\text{C}$

- (4) The reference temperature for the provision of FC shall be the forecast (9:00 hours) of the average daily temperature for the following calendar day at the meteorological station Nuremberg/Airport.

## Tender for negative FC

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- (5) The minimum tender size (lot size) shall be 50 MWh/h.
- (6) The tenderer shall state in its tender (Annex 2 to the Individual Contract) the contact data of the balancing group manager nominated by the tenderer for the handling of the utilization of FC.
- (7) Joint tenders are admissible, whereby only one responsible representative shall be nominated as contact person.
- (8) The tenderer shall book and pay for the capacity required for the provision of FC **except for exit capacity in Medelsheim.**

### Section 4 Fees

- (1) The tender may be made either by stating a firm megawatt-hour rate in €/MWh or an index-based megawatt-hour rate defined as follows. The index-based megawatt-hour rate may depend on the positive balancing energy rate of the NCG (“AE” in €/MWh) and the within-day rate (“PEG\_nord” in €/MWh) published by Powernext at PEGNord for the relevant gas day on which the FC is supplied. In the event that tenders are made on the index-based rate, the two factors a and b (both each greater than or equal to 0) need to be stated in the megawatt-hour rate formula:

$$(a \cdot AE) - (b \cdot PEG\_nord) [€/MWh]$$

- (2) GRTgaz D shall compensate the tenderer after completed rendering of services with the megawatt-hour rate multiplied with the duration of the utilization (in hours) and with the rendered services (in MWh/h).
- (3) VAT shall be added to the charges in the respective legal amount.

### Section 5 Award of Contract

- (1) The tendering procedure shall terminate with the award of contract. For the award of contract, the tenders are sorted in a list according to the amount of the megawatt-hour rate in ascending order (merit-order-list). The award of contract shall be made beginning with the lowest firm megawatt-hour rate until demand is satisfied. In the event of an insufficient number of tenders with a firm megawatt-hour rate the award of contract shall be made among the index-based tenders in ascending order, sorted according to size a-b until demand is satisfied. In the event that the prices are the same, the date of receipt of the tender shall be decisive for the award of contract.
- (2) GRTgaz D shall be entitled to adapt the order for reasons of network security or network stability, and in the event of award of contract to deviate from the previous provision accordingly, or not to include individual tenders in the list. In cases of Sentence 1 of this Section 5, GRTgaz D shall be obligated to document the reasons for adaptation of the order in writing and to state reasons for such adaptation. Tenderers and the Federal Net Agency (“Bundesnetzagentur”) shall be supplied with this documentation without having to request it.

## Tender for negative FC

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- (3) All tenders from this or further tendering procedures for FC, for which GRTgaz D has awarded contract, are included in a utilization list.
- (4) The tenderers shall be informed by GRTgaz D about the award of contract in writing.
- (5) GRTgaz D shall publish on its homepage an anonymized list (without stating the names of the tenderers and without price indications) of the contracts awarded.
- (6) There is no claim to the award of contract.

### Section 6 Request for Utilization of FC

- (1) The request for utilization of FC shall be made by GRTgaz D unilaterally with the nominated balancing group operator. In doing so, GRTgaz D shall define the required amount and the period of utilization of FC. The required amount may be smaller than or equal to the maximum amount of the tender. Utilization in this respect shall mean that the exit point concerned must be used beyond the nominations received by GRTgaz D before the request in the amount of the requested FC. Utilization may also mean that it is forbidden to continue to use the entry point concerned in the requested amount. Further renomination of the capacity concerned shall be admissible for the period of utilization **only, if the hourly imbalance with GRTgaz D (=total of entry flows into GRTgaz D's system minus total of exit flows out off GRTgaz D's system) in the balancing group contract concerned diminishes or remains the same after the renomination and the respective matching processes.**
- (2) The usual standards in the gas business are agreed discrimination-free between GRTgaz D and the tenderer for the utilization of FC and for the communication channels. The utilization of required FC shall be made according to a discrimination-free and cost-efficient procedure. For this reason, utilization shall be made in ascending order of the megawatt-hour rate of the tenders, for which contract was awarded. Utilization of FC from the utilization list shall be made according to the expectedly lowest megawatt-hour rate. For index-based tenders, the anticipated megawatt-hour rate shall be calculated on the basis of the prices for *AE* and *PEG\_nord* of the previous day. In the event that the megawatt-hour rates are the same, utilization shall be made proportionally to the amount of contracted flow commitments. GRTgaz D shall be entitled to amend the order of the utilizations from the utilization list for reasons of network security or network stability.
- (3) Request of FC shall be made by 24:00 hours of the previous day at the latest (Day-Ahead-Process) of the day of claiming FC by the commercial dispatching of GRTgaz D.
- (4) Request of FC by GRTgaz D shall be made by fax, stating the number of the Individual Contract, the lot number(s), the period of validity of the utilization notice, and the entry and exit time series of the balancing group manager existing before utilization, as well as the entry and exit time series required after utilization. Receipt of the fax shall be confirmed in writing to GRTgaz D. In addition, the balancing group manager shall send without undue delay after request of FC a fax to the fax number of the dispatching centre concerned (STGW for GRTgaz D: **+43 3862 51000 28 210**) and to GRTgaz D **+49 30 72619049 761**, stating the utilized FC. Furthermore, the balancing group manager shall send to GRTgaz D a respective renomination or nomination according to the Operating Manual of GRTgaz D.



## *Tender for negative FC*

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- (5) Utilization of a FC shall not release the relevant balancing group manager from the requirements of the balancing group contract with respect to a balanced status of the balancing group.
- (6) In the event that after utilization of a FC a change of entry or exit quantities of the tenderer within the balancing group concerned is set, which causes an equilibrium of the balancing group, the balancing group must be balanced by an increase of an entry nomination or a decrease of an exit nomination at an entry or exit point within the market area of NCG, which shall be situated north of the gas station Werne (network of the E.ON Gastransport GmbH, e. g. see Annex 1). In the event that balancing is carried out at another entry or exit point, the FC is deemed to be non-rendered.
- (7) If the requested net exit flow was offered by a reduction in Waidhaus or Oberkappel and if the nominations received by GRTgaz D on firm capacity before the request do not allow such a reduction, the FC is deemed to be non-rendered.
- (8) There is no claim to utilization.

### **Section 7 Confidentiality**

- (1) The Parties shall treat confidentially the content of the general contract and the individual contract and all information which they obtain in connection with said contracts (hereinafter referred to as "confidential information") and shall not disclose such confidential information or make it accessible to third parties without the prior written consent of the Party affected. The Parties undertake to use the confidential information obtained exclusively for the purpose of performing the contract concerned.
- (2) Either Party shall be entitled to disclose without the written consent of the other Party any confidential information obtained from the other Party
  - a) to an affiliated company, provided that such company assumes the same confidentiality obligation;
  - b) to its representatives, consultants, banks and insurers if and to the extent that disclosure is needed for proper performance of the contractual obligations and such persons or companies have undertaken to treat such information confidentially prior to the receipt thereof or are under a professional secrecy obligation in respect of such information; or
  - c) to the extent that the confidential information
    - was legitimately known to the Party receiving the information at the time it was obtained from the other Party;
    - was already in the public domain or becomes publicly available other than through an act or omission of the receiving Party; or
    - was to be disclosed by a Party due to a statutory provision or a court or official order or a request of the regulatory authorities; in any such case, the disclosing Party shall inform the other Party thereof without undue delay.

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- (3) The confidentiality obligations shall remain in force for a period of 2 (two) years after the expiry or termination of the contract concerned.
  - (4) Section 9 EnWG shall remain unaffected.

### **Section 8 Terms of Payment**

- (1) The tenderer shall invoice GRTgaz D the FC rendered in the previous month as soon as the required data of the measured and allocated gas quantities are available. The invoice shall also state any accruing taxes in the respective legal amount. The invoiced amount shall be issued in Euros and be rounded to two digits after the decimal point.
- (2) Payment by GRTgaz D shall be effected within 30 calendar days after receipt of the invoice.
- (3) In the event that an obvious calculation error has occurred, the amount stated in the invoice can be corrected by the respective missing amount, with enclosed written explanation of the correction made.
- (4) Either Party shall be entitled to set off amounts receivable from this contract against undisputed or legally established amounts. In addition, the Parties can only set off amounts receivable from this contract against amounts resulting from this contract or amounts resulting from other existing contracts between the Parties.

### **Section 9 Contractual Obligations / Contract Penalty**

- (1) Upon utilization of FC the tenderer shall be obligated to make available the utilized FC.
- (2) GRTgaz D shall be entitled but not obligated to utilize negative FC.
- (3) In the event that the tenderer, after utilization of FC by GRTgaz D pursuant to Section 6 does not fulfil its contractual obligations wholly or in part, or not in due time, and if he is responsible for doing so, GRTgaz D shall be entitled without any further reminder to reject any further fulfilment of its contractual obligations and to replace them by other negative FC for the duration of breach of duty (execution by substitution). In this event, the tenderer is obligated, independently of the execution by substitution, to pay to GRTgaz D the 1.5 fold of the fee agreed at the conclusion of the contract pursuant to Section 4 for the part of negative FC that has not been contractually rendered.
- (4) This contract penalty does not affect both the right to extraordinary termination pursuant to Section 11 and the right to assert further damages by GRTgaz D.

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### **Section 10 Costs**

The tenderer shall bear any costs incurred by the participation in the tendering procedure of GRTgaz D itself.

### **Section 11 Termination**

- (1) The right to proper termination is excluded
- (2) The right to termination for an important reason without observance of a time of notice shall remain unaffected. An important reason is in particular, if and to the extent to which the Federal Network Agency does not wholly or partially accept the costs for the supply and/or the utilization of FC, if a Party repeatedly breaches its contractual obligations, or if measures of enforcement have been taken against it.
- (3) Extraordinary termination must be made in writing.

### **Section 12 Changes in Circumstances**

- (4) If unforeseeable circumstances occur during the term of this contract which have considerable economic, technical or legal effects on the contract, but which were not provided for in the contract or in these Terms and Conditions for Access to the Network or were not considered when the contract was concluded and if it would consequently be unreasonable for a Party to fulfil a particular contractual provision, the Party affected shall be entitled to require from the other Party a corresponding amendment of the contractual provisions that takes account of the changed circumstances as well as all economic, technical and legal consequences for the other Party.
- (5) The Party citing such circumstances described in Section 1 of this Section 12 shall specify and prove the necessary facts.
- (6) Entitlement to amendment of the contractual provisions shall exist from the date on which the demanding Party first requests amendments to the contractual provisions because of the changed circumstances, unless the demanding Party could not be reasonably expected to make such request at an earlier time.

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### Section 13 Amendments to this General Contract

- (1) GRTgaz D shall be entitled to make amendments or additions to this General Contract, which do not concern an essential contractual provision of this General Contract, at anytime. GRTgaz shall notify the tenderer in writing of any amendments or additions 6 weeks before the taking effect of such amendments or additions. In this event, the tenderer shall be entitled to extraordinarily terminate this General Contract or any existing Individual Contracts, to which this General Contract applies, within a term of two weeks after notification by GRTgaz D of the amendment and the consequences of non-termination. In the event that the tenderer fails to make use of its right to termination, the amendments shall also apply to the existing contracts.
- (2) GRTgaz D shall be entitled to amend this General Contract at anytime with effect on contracts to be concluded with the tenderer in the future.
- (3) GRTgaz D shall be entitled to amend this General Contract with immediate effect also for existing contracts as far as an amendment is necessary in order to comply with relevant laws or ordinances and/or legally binding jurisdiction of national or international courts and authorities, including but not limited to specifications of the Federal Network Agency and/or generally accepted rules of technology. In this event GRTgaz D shall inform the tenderer of such amendments without undue delay.
- (4) In addition, GRTgaz D shall be entitled to amend the provisions of request of utilization (Section 6) with immediate effect for existing contracts in order to simplify the handling of the utilization of FC. GRTgaz D shall inform the tenderer in writing of such amendments or additions 6 weeks before their taking effect. In this event the tenderer shall be entitled to terminate this General Contract or existing Individual Contracts to which this General Contract applies within a term of two weeks after GRTgaz D has informed it of the amendment and the consequences of non-termination.

### Section 14 Force Majeure

- (1) If a Party is unable to perform its obligations because of force majeure, said Party shall be released from its obligations.
- (2) "Force majeure" shall be deemed any unforeseeable external circumstance which the Party affected could not have been expected to prevent or could not have prevented in good time by applying reasonable care and measures which it would have been technically feasible and commercially viable to take. Without limitation, force majeure shall include natural disasters, terrorist attacks, power failure, failure of telecommunications connections, strikes and lock-outs, provided that the lock-outs are lawful, and legal provisions or measures by governments, courts or authorities, irrespective of whether such measures are lawful.
- (3) The Party affected by force majeure shall without undue delay inform the other Party thereof, stating the reasons for and likely duration of the disruption that has occurred. In any such case, the Party affected shall take all technically feasible and economically viable steps to resume the performance of its obligations as soon as possible

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## **Section 15 Liability**

- (4) The Parties shall be liable to each other for loss or damage in the form of death, personal injury or damage to health, unless such loss or damage was not caused by wilful act or omission or negligence of the Party itself or its statutory representatives, servants, agents and employees.
- (5) In the event of a breach of material contractual obligations, the Parties shall be liable to each other for damage to property and financial loss, unless such damage or loss was not caused by wilful act or omission or gross negligence of the Party itself or its statutory representatives, servants, agents and employees. The liability of the Parties in the case of damage to property and financial loss caused by slight negligence shall be limited to such typical loss or damage as could reasonably have been foreseen in connection with the contract concerned. Typically, in the case of business of this nature the amount of loss or damage can be expected to reach EUR 2.5 million in the case of damage to property and EUR 1.0 million in the case of financial loss.
- (6) The Parties shall be liable to each other for damage to property and financial loss arising in connection with the breach of non-material contractual obligations unless such loss or damage was not caused by wilful act or omission or gross negligence of the Party itself or its statutory representatives, servants, agents and employees.
- (7) In the case of damage to property or financial loss caused by gross negligence, the liability of the Parties and their statutory representatives or senior servants, agents or employees shall be limited to such typical loss or damage as could reasonably have been foreseen in connection with the contract concerned. The liability of the Parties for their ordinary servants, agents and employees shall be limited to EUR 1.5 million in the case of damage to property caused by gross negligence and EUR 0.5 million in the case of financial loss caused by gross negligence.
- (8) If the total claims for damages in connection with one event exceed the respective maximum amount, the individual claims shall be reduced pro rata so that the total figure for the claims does not exceed the respective maximum amount.
- (9) GRTgaz shall not be liable for financial loss caused by measures under Section 16(2) of the Energy Industry Act (EnWG). Without limitation, measures under Section 16(2) of the Energy Industry Act (EnWG) include measures taken to ensure gas supplies to domestic customers under Section 53 a of the Energy Industry Act (EnWG).
- (10) Liability of the network operator under preemptory provisions of the Third-Party Liability Act (Haftpflichtgesetz) and other legal provisions shall remain unaffected.
- (11) Sections 1 to 7 of this Section 15 shall also apply in favour of statutory representatives, servants, agents and employees of GRTgaz D.

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### **Section 16 Assignment**

- (1) Any contractual rights and/or obligations shall not be wholly or partly assigned to any third party without the prior consent of the other Party. Such consent shall not be unreasonably withheld.
- (2) Assignment in accordance with Section 1 of this Section 16 to an affiliated company as defined in Section 15 of the Joint Stock Corporation Act (Aktiengesetz) shall not require prior consent by the other Party but merely written notification to the other Party. An "affiliated company" shall also be a company that directly or indirectly holds at least 50 % of the shares or voting rights of the assignor or assignee company.

### **Section 17 Contractual Language**

This contract including its Annexes is stipulated in German and English language. In case of contradictions the German language version shall prevail.

### **Section 18 Applicable Law**

This General Contract shall be exclusively governed by the law of the Federal Republic of Germany with exception of the provisions of international private law.

### **Section 19 Severability**

- (1) If any of the provisions of this Contract or its Appendices/Annexes are or become invalid or unenforceable, the other provisions of the Contract and its Appendices/Annexes shall remain in full force and effect.
- (2) The Parties undertake to replace the invalid or unenforceable provisions in an appropriate procedure by other provisions having as far as possible the same economic results. The foregoing provision shall also apply to any gaps in this Contract or its Appendices / Annexes.

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### Section 20 Written Form

- (1) Any amendment to or termination of a contract shall not be valid unless made in writing..
- (2) Any waiver of this written form requirement shall likewise not be valid unless made in writing.

### Section 21 Arbitration

- (1) Any disputes arising out of a contract shall be exclusively and finally settled by a court of arbitration.
- (2) The court of arbitration shall be made up of three arbitrators, one of whom shall act as chairman of the court of arbitration. The chairman shall be fully trained and qualified to be a judge. The court of arbitration shall be formed by the Party instituting arbitration proceedings describing the matter in dispute, appointing an arbitrator and calling upon the other Party to appoint a second arbitrator, and the two named arbitrators then selecting the chairman. If either Party fails to appoint an arbitrator within a period of 4 (four) weeks, the Party that instituted the arbitration proceedings shall be entitled to request the president of the competent court to propose a second arbitrator. The proposal shall be binding on the Parties. If the arbitrators have not selected the chairmen within a period of 4 (four) weeks, either Party shall be entitled to request the president of the competent court to propose a chairman. The proposal shall be binding on the Parties.
- (3) The venue for any arbitration proceedings shall be Berlin. The competent court of jurisdiction pursuant to Section 1062 of the German Code of Civil Procedure (Zivilprozessordnung) shall be the Higher Regional Court of Berlin. In all other respects, Sections 1025 to 1065 of the German Code of Civil Procedure shall apply to the arbitration proceedings.
- (4) Section 31 of the Energy Industry Act (EnWG) shall not be affected.

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GRTgaz D

Location, Date, Signature

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Tenderer

Location, Date, Signature

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## Annex 1 to the General Contract

After a request of negative FC a balancing group manager can balance his/her account, for example, at one of the following points. This list is not exhaustive.

<b>Point</b>	<b>Action</b>
Emden EPT + NPT, E.ON GT	Increase of entry nomination with firm or interruptible capacity
Dornum, E.ON GT	Increase of entry nomination with firm or interruptible capacity
Steinitz 1, E.ON GT	Increase of entry nomination with firm or interruptible capacity
Oude, E.ON GT	Increase of entry nomination with firm or interruptible capacity
Oude-2, E.ON GT	Increase of entry nomination with firm or interruptible capacity
Oude, E.ON GT	Reduction of exit nomination with firm capacity
Oude-2, E.ON GT	Reduction of exit nomination with firm capacity
Steinitz 1, E.ON GT	Reduction of exit nomination with firm capacity
Storage Epe, E.ON GT	Reduction of injection into storage
Storage Epe, E.ON GT	Increase of withdrawal from storage
Storage Etzel, E.ON GT	Reduction of injection into storage
Storage Etzel, E.ON GT	Increase of withdrawal from storage



**Serial Number  
of the Individual Contract:  
XY/Number of Lots**

# **Individual Contract to the General Contract Negative Flow Commitment**

Between

**GRTgaz Deutschland GmbH**

Zimmerstrasse 56, 10117 Berlin

- in the following referred to as “**GRTgaz D**” -

and

**Tenderer XYZ**

*[Address]*

- in the following referred to as “**Tenderer**” -

Each hereinafter referred to as “**Party**” and collectively as “**Parties**”

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**Section 1 Quotation**

- (1) The quotation shall be taken from Annex 1 to this Individual Contract.
- (2) Each submitted lot shall be deemed an offer for a separate Individual Contract.

**Section 2 Parts of the Contract**

The General Contract Negative Flow Commitments between GRTgaz D and the tenderer as well as all annexes to this Individual Contract shall be an essential part of this Contract.

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GRTgaz D

Location, Date, Signature

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Tenderer

Location, Date, Signature

## Annex 1 to the Individual Contract: Tender Form for Negative FC in the GBY 2009 / 2010

Tenderer:

Entry-/Exit Point  
(freely allocable capacity with GRTgaz D):

Balancing Group Number (with NCG):

Lot Size: 50 MWh/h

	Temperature [T]	Negative FC Lots (units)	Negative FC amount in MWh/h	Megawatt-hour rate in €/MWh			
				Fixed price	alternatively	Factor a	Factor b
1	$T \leq 0^{\circ}\text{C}$						
2	$0^{\circ}\text{C} < T \leq 8^{\circ}\text{C}$						
3	$T > 8^{\circ}\text{C}$						

$$(a \cdot AE) - (b \cdot PEG\_nord) [\text{€/MWh}]$$

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## Annex 2 to the Individual Contract: Data Sheet

### Contact data of the tenderer:

Name: \_\_\_\_\_

Street: \_\_\_\_\_

Postcode/City: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

### Contact data of the nominated balancing group manager:

Telephone number for FC utilization (24h/365): \_\_\_\_\_

Name: \_\_\_\_\_

Street: \_\_\_\_\_

Postcode/ City: \_\_\_\_\_

Balancing group number (NCG): \_\_\_\_\_

DVGW Market Partner Number:<sup>†</sup> \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

<sup>†</sup> if available, see [www.dvgw-sc.de](http://www.dvgw-sc.de)