

For your information only:  
Only the German version of this Contract is legally binding!

## **Contract**

**bayernets GmbH**  
Poccistraße 7  
80336 Munich  
Network operator number 700069  
– hereinafter referred to as “bayernets” –

and

**Shipper**  
Street / House number  
Postcode / Town  
– hereinafter referred to as “Shipper” –

– both, individually or jointly, hereinafter referred to as “Contracting Party or Parties” –

on establishing and executing a time-shift procedure as nomination replacement procedure

## Preamble

In accordance with Section 15 (3) of the Gas Network Access Ordinance (GasNZV), every transmission system operator is obliged to offer the shipper a nomination replacement procedure in addition to the standard nomination procedure in the sense of Section 15 (1) of the GasNZV, insofar as this is technically and economically viable. bayernets offers the time-shift procedure ("NEV") as a nomination replacement procedure.

The General Terms and Conditions for the Entry and Exit Contract of bayernets GmbH (German: "AGB EAV") shall apply to this contract. The GT&Cs are Annex 1 to the Cooperation Agreement Gas that sets out the general conditions for the entry and exit contract that must be applied uniformly by all transmission system operators. The framework conditions for establishing and executing a nomination replacement procedure are regulated in Section 14 of the General Terms and Conditions (German: "AGB EAV").

This said, the Contracting Parties agree to the following for implementing the framework conditions for establishing and executing a time-shift procedure (German: "NEV"):

### § 1 Subject matter of the contract

1. The subject matter of this contract is the establishment and execution of a time-shift procedure (German: "NEV").
2. The NEV shall be applied at the NEV exit point defined in Annex 1 using the NEV entry point defined in Annex 1 and, in the case of Section 3 (1), the other network point defined in Annex 1, if applicable. The NEV exit point represents a network connection point to an end-consumer, the NEV entry point represents a network connection point to a flexible source of supply and the other network point represents a network point to a storage facility or cross-border connection point.
3. Within the scope of the NEV, bayernets nominates at the NEV entry point the hourly metered values based on the +4-hour time-shift of the named NEV exit point.

### § 2 Requirements for establishing the NEV

1. The following requirements shall be fulfilled to execute the NEV:
  - a. The named NEV entry point lies within the network area of bayernets.
  - b. As a flexible source of supply, only those NEV entry points within the network area of bayernets, USP Haidach, USP Haiming 2 7F/bn, USP Haiming 2 RAGES/bn, USP Inzenham-West and USP Wolfersberg, shall be used.
  - c. The named NEV exit point lies within the network area of bayernets.
  - d. Only one NEV exit point is assigned to each NEV entry point.
  - e. The flexible source of supply is provided by the firm capacity booked by the Shipper at the NEV entry point in the volume required.
  - f. The Shipper has informed bayernets of the NEV exit point and the corresponding NEV entry point 20 working days prior to the time when the NEV shall be applied. In accordance with Section 2 (30) of the AGB EAV, deviating from the definition of Section 2 (16) of the GasNZV, working days for the purposes of deadline regulation shall mean all days that are not a Saturday, Sunday or statutory public holiday. Should a day be designated as a public holiday in one federal state, this day shall count as a nationwide public holiday. The 24 December and the 31 December of each year shall be deemed public holidays.

- g. Before concluding this contract, the Shipper has concluded an agreement with the respective storage facility operator of the flexible source of supply that entitles bayernets to nominate the NEV entry point in the name of and at the cost of the Shipper and this agreement has been submitted to bayernets during the conclusion of this contract.
  - h. The Shipper has informed bayernets to which balancing group the firm capacities required to process the NEV (NEV-BK) should be incorporated prior to concluding this contract.
2. It shall be for bayernets to decide whether all the requirements set out in item 1 are fulfilled.

### **§ 3 Differential splitting control**

- 1. Insofar as the Shipper wishes, also the entry nomination of another network point that is set out in Annex 1 within the bayernets network can be considered for the calculation of the entry nomination at the NEV entry point named by the Shipper (“differential splitting control”).
- 2. bayernets is entitled to refuse use of another network point requested by the Shipper, especially if the other network point is not suitable for differential splitting control in terms of flow mechanics.
- 3. It shall be for bayernets to evaluate suitability for the differential splitting control pursuant to item 2 above.
- 4. In the event that the entry nomination of the other network point is larger than the metered value at the NEV exit point, it is to be taken into account that this results in a NEV exit nomination instead of a NEV entry nomination and that the Shipper is obliged to provide the corresponding exit capacities.

### **§ 4 Provision and use of firm entry capacities for processing the NEV**

- 1. The Shipper shall be obliged to ensure that the source of flexible supply named by the Shipper can be used in every hour and that sufficient firm entry capacities are available for the Shipper at the NEV entry point in every hour.
- 2. The Shipper shall be obliged to incorporate the firm capacities at the named NEV exit point and at the named NEV entry point that are to be taken into account when processing the nomination replacement procedure into the designated NEV-BK pursuant to Section 2 (1) (h).
- 3. Firm entry capacities that are not incorporated into the NEV-BK named to bayernets by the Shipper do not count as available firm entry capacities for the Shipper at the named NEV entry point.
- 4. The Shipper can use the capacity booked at the NEV entry point to the extent in which this capacity has been incorporated into the named NEV-BK. The Shipper is not entitled to make use of capacity exceeding this.
- 5. In the case that insufficient firm capacities have been incorporated into the named NEV-BK by the Shipper at the named NEV entry point for a single hour and this results in a capacity exceedance within the scope of the NEV processing, a contractual penalty shall be due pursuant to the regulations set out in Section 30 (4) of the AGB EAV in conjunction with the supplementary terms and conditions of bayernets and the bayernets price list.

### **§ 5 Collection and transmission of metered values**

- 1. The Shipper is obliged to collect the metered value that is used for processing the NEV in kilowatt hours (kWh) at the named NEV exit point for every hour and to make these metered values available to bayernets no later than 15 minutes after the end of the hour for which the metered data was collected.

2. Responsibility for setting up, for the trouble-free functioning and for the costs of installing and operating the respective technical equipment for data collection and transmission (“technical equipment”) is to be assumed by the Shipper. The Shipper must also make sure that all interfaces between the technical equipment and the formats of the data to be transmitted are state-of-the-art technology.
3. The Shipper is obliged to inform bayernets of an outage of technical equipment without delay. It is the responsibility of the Shipper to rectify the technical malfunction and to restore the trouble-free functioning of the technical equipment. The Shipper is obliged to inform bayernets immediately after eliminating the malfunction.
4. If bayernets is the metering point operator at the named NEV exit point, bayernets is entitled to retrieve the metered values at the NEV exit point itself by means of remote data transmission.
5. The Shipper is obliged to forecast the exit volume at the NEV exit point and to send this information to bayernets by means of a technical exit message in the sense of Section 15 of the AGB EAV in the NOMINT format.

## **§ 6 Nomination, matching and allocation**

1. Based on the metered values of the NEV exit point, bayernets shall submit to the storage facility operator of the flexible source of supply an entry nomination at the NEV entry point corresponding to the metered value with a time-shift of +4 hours and that shows the technical exit message at the NEV exit point for the rest of the gas day. bayernets is not obliged to check the plausibility of the metered values before submitting the nomination.
2. The Shipper is not obliged to submit an entry nomination at the NEV entry point towards the storage facility operator of the flexible source of supply or to instruct a third party to submit such an entry nomination at the NEV entry point apart from the exceptional case set out in Section 8 (4).
3. bayernets will execute the nomination matching at the NEV entry point with the storage facility operator of the flexible source of supply at the NEV entry point.
4. bayernets will allocate the metered value measured in one hour at the NEV exit point with a time-shift of 4 hours.
5. The Shipper is obliged to send bayernets a technical exit message in the sense of Section 15 of the AGB EAV in the NOMINT format for the named NEV exit point daily for the following day, i.e. on Day D-1 for Day D.

## **§ 7 Creation of substitute values**

1. Insofar as a metered value at the NEV exit point named by the Shipper has not been received by bayernets within 15 minutes after the end of the hour for which the metered value has been determined, bayernets shall be entitled to create a substitute value. Said substitute value will be based on the value of the technical exit message in the sense of Section 6 (5).
2. bayernets shall be entitled to suspend the NEV in the event that no metered value has been received by bayernets for four consecutive hours. In the case that the NEV is suspended, bayernets shall inform the Shipper without delay.

## **§ 8 Use and suspension of the NEV**

1. The NEV cannot be used by the Shipper insofar as the flexible source of supply becomes unavailable due to planned or unplanned maintenance work or as a result of force majeure.

2. The NEV cannot be used by the Shipper insofar as bayernets suspends “the NEV” because of missing metered values in the sense of Section 7 (2).
3. bayernets shall inform the Shipper without delay about the reason and the expected duration of the suspension in the case of a necessary suspension of the NEV.
4. In the event that the NEC is suspended, the Shipper itself is obliged to nominate the NEV entry point to bayernets and the operator of the flexible source of supply in order to balance the NEV-BK.

#### **§ 9 Remuneration**

1. For setting up the NEV, the Shipper shall pay to bayernets a fee of 10,000.00 euros for each named NEV entry point, respectively.
2. No fee shall be payable to bayernets for executing and terminating NEV.

#### **§ 10 Force majeure, liability**

The provisions regulating force majeure set out in Section 34 of the AGB EAV and those regulating liability set out in Section 35 of the AGB EAV shall apply to this contract.

#### **§ 11 Changing the NEV entry point, allocation of NEV exit points**

1. It is possible for the Shipper to change the NEV entry point with a notice period of 20 working days as of the 1st calendar day of the month M+1, 06:00 hrs respectively providing bayernets has sent confirmation to the Shipper of said change of the NEV entry point requested by the Shipper.
2. bayernets is entitled to refuse allocation of a NEV exit point to another NEV entry point requested by the Shipper, especially in the case that the allocation is technically not possible for bayernets.
3. In the event that the NEV entry point is changed, Annex 1 to this contract shall be adapted accordingly.

#### **§ 12 Written form**

1. Amendments, supplements and termination of this contract require written form to be deemed effective unless there is law prescribing a stricter form. This shall also apply to waiving the written form requirement itself.
2. The electronic form (Section 126 BGB) and the text form (Section 126b BGB) are excluded. This shall also apply to amending this written form clause.

#### **§ 13 Legal succession**

Any transfer of this contract shall require prior consent by the other Contracting Party. Consent may only be refused for good cause.

#### **§ 14 Place of jurisdiction and applicable law**

1. The place of jurisdiction for disputes arising from or in connection with this contract is Munich.
2. This contract and its interpretation shall be exclusively subject to the laws of the Federal Republic of Germany, excluding the conflict of laws rules and the intergovernmental agreements that have been incorporated into the laws of the Federal Republic of Germany, insofar as they do not constitute mandatory law.

## **§ 15 Severability clause**

1. In the event that individual provisions of this contract or its annexes should be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions.
2. In such a case, in an appropriate procedure, the contracting parties shall be obliged to replace the invalid or unenforceable provision with another valid and enforceable provision that is as close as possible to the invalid or unenforceable provision in its economic result.
3. This shall apply mutatis mutandis to regulatory omissions.

## **§ 16 Termination of the contract**

1. The contracting parties can terminate this contract with a notice period of 10 working days respectively as of the 1st calendar day of the month M+1, 06:00 hrs.
2. bayernets, however, may only duly terminate this contract insofar as
  - a. bayernets is technically no longer able to execute a NEV or
  - b. it is no longer economically reasonable for bayernets to execute a NEV or
  - c. the legal and/or regulatory framework conditions regarding executing a NEV have changed.
3. Extraordinary notice of termination is possible for each contracting party for good cause. An important reason is deemed to exist in particular if the respective other Contracting Party has repeatedly and seriously violated essential provisions of the contract, despite cautioning.

## **§ 17 Term of the contract and entry into force**

1. The contract shall be concluded for an indefinite period upon the signature of both Contracting Parties.
2. If the conditions according to Section 2 (1) (f) sentence 1 are met in a timely manner the contract shall become effective on expiry of an implementation period of 10 working days as of the 1st calendar day of the next following month M+1, 06:00 hrs.
3. If the conditions according to Section 2 (1) (f) sentence 1 are not met in a timely manner, the contract shall become effective after bayernets receives the notice concerning the NEV exit and entry point and on expiry of an implementation period of 20 working days as of the 1st calendar day of the next following month M+1, 06:00 hrs.

## **§ 18 Integral parts of the contract**

1. The AGB EAV of bayernets are integral parts of this contract. These are published at [www.bayernets.de](http://www.bayernets.de) and are available for download there. On request by the Shipper, bayernets will also send the AGB EAV in paper form.
2. The attached annexes are an integral part of this contract. In the event that a regulation set out in an annex deviates from a regulation set out in this contract, the regulation set out in this contract shall prevail.

### **Annex 1:**

Definition of determined NEV entry point, definition of the NEV exit point, definition of other network point within bayernets' network for executing the differential control

**Annex 2:**

Contact information of the Contracting Parties

Munich, (date)...

Town, (date)...

bayernets GmbH

Shipper