

Exchange Agreement

(pursuant to section 10 Framework Storage Agreement)

to Individual Storage
Agreement No.:

Version: June 2017

Tank storage facility:

Mineral oil:

Between the Erdölbevorratungsverband
Körperschaft des öffentlichen Rechts Jungfern-
stieg 38, 20354 Hamburg

– hereinafter "EBV" –

and

– hereinafter "Storage Company" –

and (please also fill in the blank if Storage
Company and Partner for Exchanges are
identical)

– hereinafter "Partner for Exchanges" –

– together the "Parties" –

The Parties have agreed to enter into the following Exchange Agreement ("Agreement"):

Section 1 Contract Terms and Obligations

- (1) On entering into this Agreement, the Partner for Exchanges commits itself to be jointly and severally liable with the Storage Company during the term of the underlying Individual Storage Agreement for the exchange [*Wälzung*] for quality purposes (preservation) of the stored mineral oil as defined in section 1(1) Framework Storage Agreement. Exchanges for the purposes of preservation shall be performed free of charge for the EBV.

- (2) The terms and conditions of the respective exchange shall be set out in an individual contract between the EBV and the Partner for Exchanges. Such individual contract shall particularly regulate the following:
 - Storage location/tank number (if applicable),
 - Mineral oil/quality,
 - Quantity,
 - Internal price [*Verrechnungspreis*],
 - Time period of the exchange.

- (3) The following shall apply with regard to this Agreement and the individual contracts entered into under this Agreement:
 - (a) The individual agreement between the EBV and the Partner for Exchanges according to section 1(2),
 - (b) the provisions of the Individual Storage Agreement,
 - (c) the provisions of the Framework Storage Agreement, and
 - (d) the *General Conditions of Contract of the German National Petroleum Stockpiling Agency* (version: June 2017) ("**General Conditions of Contract**")

If there are discrepancies in the set of rules listed in subparagraphs (a) to (d) above, the individual regulations of a set of rules shall prevail over the contrary regulations of the respective set of rules which is mentioned thereafter.

- (4) The *Allgemeine Deutsche Spediteurbedingungen* (ADSp) [General German Freight Forwarders' Standard Terms and Conditions] shall not apply. Deviating, contrary or supplementary general terms and conditions of the Storage Company or Partner for Exchanges will only become an integral part of this Agreement if and to the extent that the EBV has expressly consented to their applicability in writing. This requirement for consent shall apply in every case, e.g. also if the EBV unconditionally fulfils its own contractual obligations with the knowledge of the Storage Companies or Partner for Exchanges' general terms and conditions.

Section 2 Further Obligations

- (1) Any change with regard to the identity of the Partner for Exchanges during the term of the Individual Storage Agreement shall require an amendment of this Exchange Agreement, which amendment the EBV may only refuse for good cause [*aus wichtigem Grund*].
- (2) In the case of segregated storage, the EBV shall determine which stock is to be exchanged [*wälzen*] and at what time. In the case of commingled storage (collective storage [*Sammellagerung*]), the Partner for Exchanges shall in agreement with the EBV determine the time and quantity of stock to be exchanged.
- (3) The Storage Company and the Partner for Exchanges shall comply with the respective applicable statutory provisions relating to the customs tax, value added tax and energy tax-related processing of the goods to be exchanged. The processing shall be coordinated with the EBV on a case-by-case basis. The respective tax facility manager shall arrange for any notifications of changes of registration, if necessary.
- (4) In the case of commingled storage, the stock after exchange must be equivalent to the quantity of the EBV-owned stock [*Eigentumsbestand*] stockpiled by the EBV pursuant to section 6(1) Framework Storage Agreement. In the case of segregated storage, excess quantities or deficiencies of up to 100 m³ per tank may be offered to the EBV for purchase or sale after the exchange.
- (5) The Partner for Exchanges guarantees that the exchanged goods meet the agreed specification, which specification must comply at least with any DIN/EN [German/European Standards] governing the exchanged goods. In the absence of an agreement, the DIN/EN shall be complied with or, if a DIN/EN does not exist, at least the quality customary in the market.

Section 3 Other provisions

- (1) German law shall apply, excluding the provisions of the international private law and of the UN Convention on Contracts for the International Sale of Goods. If the Storage Company and the Partner for Exchanges are merchants [*Kaufmann*], a legal person under public law [*juristische Person des öffentlichen Rechts*] or a special fund under public law [*öffentlich-rechtliches Sondervermögen*], the place of jurisdiction shall be Hamburg.
- (2) Amendments of and additions to this Agreement must be made in writing within the sense of section 126 BGB [German Civil Code]. The same shall apply to a waiver of the written form requirement.
- (3) All agreements between the Parties are fully contained in the provisions of this Exchange Agreement, the respective individual agreement, the provisions of the Framework Storage Agreement and the Individual Storage Agreement and in the General Conditions of Contract.

Convenience Translation! Not legally binding!

(4) § 475 b HGB [German Commercial Code] (warehouse keeper's right of lien) is waived.

, dated

Hamburg, dated

Storage Company:



.....
(Stamp, full names and signatures)

.....

....., dated

Partner for Exchanges

.....
(Stamp, full names and signatures)