

Terms and conditions – Storage auctions



Fluxys BE - Loenhout



Form of acknowledgement

The Parties have entered into a Standard Storage Agreement ("**Storage Agreement**").

Capitalized terms herein have the same meaning as defined in attachment 3 of the Storage Agreement.

These terms and conditions apply to all participants of Auction Windows organized by Fluxys Belgium pursuant thereto for the sale of Storage Services at the Loenhout storage facility (the "**T&C Storage Auctions**"), in addition to the provisions of the Storage Agreement and the Access Code for Storage.

These T&C Storage Auctions together with specific information regarding the Storage Services offering published on Fluxys' website for each Auction Window, shall constitute the Terms and Conditions Auction Window.

....., a company organized and existing under the laws of....., having its registered office at, entered with the Company Register under the number.....

hereby fully acknowledges and agrees to the T&C Storage Auctions without reservations or conditions.

Date: _____

Signature

Signature

[First name, Surname,
position]

[First name, Surname,
position]

Hereafter referred to as the "**Participant**".

1. INTRODUCTION

These T&Cs define the relationship between the Storage Operator and the Applicant/Participant to Auction Windows, the registration requirements and procedures for participating to Auction Windows, including the various applicable procedures and conditions throughout the Auction process and the warranties provided by each Party.

2. Auction specifications

At the latest 3 Business Days before an Auction takes place, Storage Operator will announce on its website all particulars of an upcoming Auction, including the following:

- By when new subscribers to these T&C Storage Auctions need to submit their Form of acknowledgement and the supporting documents mentioned in 3.2
- By when Storage Operator will accept / refuse a Form of Acknowledgement and the supporting documents mentioned in 3.2
- Date and time of the upcoming Auction
- Description of the Storage Services on offer
- Applicable Reserve price
- Procedure to indicate a minimum allocation
- Procedure to submit a Bid
- Allocation mechanism, including:
 - Link to the Auction Website
 - Duration of Rounds and time between 2 Rounds
 - Major and Minor Price Steps
 - Fall back mechanism in case of issues with the Auction Website

3. REGISTRATION

3.1. Prerequisite

For the avoidance of doubt, pursuant to the Code of Conduct, before becoming a Participant a party has to become a Storage User by signing the Standard Storage Agreement. If you're not a Storage User yet, please contact info.storage@fluxys.com.

The Standard Storage Agreement and other documents can be found [here](#).

3.2. Participating to auctions

In order to become a Participant to the Auctions, the Applicant shall provide the Storage Operator with the following accurate and complete Registration Documents:

1. a Power of Attorney (substantially in the form of Schedule 1 to these T&C Storage Auctions) identifying the persons that are entitled to individually place Bids ("**Bidders**");
2. proof that the signatories of the Power of Attorney have the power to act on behalf of the Participant in the Auction;
3. a duly signed Form of Acknowledgement of these T&C Storage Auctions

The Registration Documents shall be sent to the Storage Operator via electronic mail to info.storage@fluxys.com.

If it is the first time the Participant participates to an Auction governed by these T&C Storage Auctions, it must submit the aforementioned documents by the deadline specified on the Fluxys website. Storage Operator will confirm receipt and whether the Participant is admitted to the Auction by electronic mail before the start of the Auction.

Fluxys Belgium can suspend a Participant's ability to participate to any Auction governed by these T&Cs Storage Auctions if it deems that the conditions for registration under these T&Cs Storage Auction are no longer satisfied by a Participant.

3.3. Outcome of the Auction

As soon as possible after the Auction ends, Storage Operator will inform the Participants whether their participation was successful or not. The successful Participant(s) will receive a Service Confirmation Form for Contracting "SCFC".

4. PRACTICAL INSTRUCTIONS

In case an Auction takes place other than through Auction Website, Fluxys Belgium will specify on its website what the practical instructions are to participate to the Auction.

In case an Auction is taking place via the Auction Website made available by Fluxys Belgium, the following practical instructions are applicable.

4.1. Access to the Auction Website

Once the Registration Documents are approved by the Storage Operator, the Bidder(s) identified in the Power of Attorney shall be provided with a username and password allowing such Bidder(s) to access the Auction Website for the first time. For the avoidance of doubt, the password will be sent separately to each Bidder, and must be kept confidential by the Bidder(s).

Upon opening of the Auction Website, each Bidder shall be required to log on to the Auction Website with the username provided and the password provided by the Storage Operator. Upon first logon, the Bidder will be requested to change his/her password to a new password of his/her choice. The password will be necessary for submitting Bids in the Auction as from the Auction Start Date. The Participant will make sure the Bidder(s) take(s) all necessary measures to protect their password, keep it confidential, and do not share it with any other Bidder, employee of the Participant or any other person.

The Auction Website Manual is available on the Auction Website and may be amended from time to time at the Storage Operator's discretion. It is provided for information purposes only and is not binding on the Storage Operator. As such the Storage Operator is not liable for its content.

4.2. Minimum requirements Auction Website

The following minimum requirements are to be met:

- Internet Explorer 8 (IE 8) or Google Chrome;
- Javascript enabled (JavaScript enables the site to refresh);
- SSL 3.0 enabled (for security reasons);
- The Participant must be registered and authenticated.

The above minimum requirements are necessary for the proper functioning of the Auction Website. It is the responsibility of the Participants to ensure that the above components are duly available and working.

5. OTHER PROVISIONS

5.1. Obligations and Liabilities

The Participant will not commit any act that would be constitutive of market abuse as defined in Regulation (EU) 596/2014 of the European Parliament and the Council of 16 April 2014 on market abuse or Regulation (EU) 1227/2011 of the European Parliament and the Council of 25 October 2011 on wholesale energy market integrity and transparency (REMIT regulation).

5.2. Warranties

5.2.1. Warranties by the Storage Operator

The Storage Operator makes no warranty regarding the quality or continuous availability of the Auction Website or the reception or saving of Bids in the event of technical or other problems beyond its reasonable control.

5.2.2. Representations and Warranties by the Applicant/Participant

The Participant warrants and undertakes:

- i. Participant has the full financial capability associated for realizing this operation;
- ii. None of its Affiliates is taking part in the Auction;
- iii. The information set forth in the Power of Attorney is complete and accurate. The Participant understands that the Storage Operator needs to process and use, for the purposes of organizing the Auction, the personal data of Participant's representatives identified in the Power of Attorney and represents that it has informed these individuals of such processing and that they have agreed with such processing; the Participant warrants and represents that it is in compliance with the *Belgian Act of 30 July 2018 on protection of individuals in relation to personal data processing*;
- iv. It shall independently determine its participation in the Auction, without any contact with another Participant as to the frequency and the level of its bidding.
- v. It has not already sold, even on a conditional basis, the capacity which it is seeking to purchase through the Auction;
- vi. Its Bidders will only place Bids for capacity pursuant to a *bona fide* estimate of Participant's actual needs. The Participant will not engage in hoarding behavior.

5.3. Termination – Rolling back (“rewind”)

Bidders may at any time before placing a Bid refrain from participating.

The Storage Operator may, if reasonably necessary for technical or operational reasons or in the event of particular circumstances, such as manifest collusion, decide to terminate the Auction. In such case, the Storage Operator shall immediately notify Participants or Bidders in writing of such decision, without prejudice to the possibility to exclude one or several Participants. Participants or Bidders shall have no claim or right in relation to any such termination or exclusion.

If required or appropriate due to exceptional and unforeseen circumstances, the Storage Operator may also decide to roll-back (“rewind”) the Auction to the place where it was before such exceptional circumstances occurred. If the Storage Operator makes use of this possibility, it will report for information about such circumstances to the market and in a report to the CREG.

5.4. Confidentiality clause

The confidentiality provisions in the Standard Storage Agreement shall apply to all information obtained by the Parties in the framework any Auction governed by these T&C Storage Auctions.

For purposes of transparency and the good working of the auctioning, the Storage Operator may however publish demand information after each Round on an aggregated basis for purposes of preserving the Bidders’ anonymity.

5.5. Notices

Without prejudice to the rules applying to communications made when an Auction is in progress (including the fallback procedure, as the case may be), all notices in writing pursuant to these T&C Storage Auction shall be given by electronic mail to info.storage@fluxys.com.

Any notice pursuant to this article, shall be deemed effective as of the date that such mail is delivered.

5.6. Language

All communications pertaining to the Auction shall be in the English language only.

The convention used for writing numbers in this T&C Storage Auctions is that the space is used to indicate multiples of a thousand and the comma as the decimal point.

5.7. Miscellaneous

The Participant shall not be entitled to assign or transfer, even on a conditional basis, any right it may have in respect or as a result of the Auction to any other party, including an Affiliated Company, before it has duly signed the SCFC (as defined in the Standard Storage Agreement) based on the outcome of the Auction.

All dates and time are referred to as in Belgium local time.

This T&C Storage Auctions creates no rights in favor of third parties.

5.8. Governing Law and disputes

These Auction Rules shall be governed and construed in accordance with the laws of Belgium.

Any dispute, controversy or claim arising out of or in connection with these T&C Storage Auctions shall be finally settled in accordance with dispute resolution provisions in Storage Agreement.

Schedule 1

To be printed on Applicant's letterhead, completed consistently with applicable law, and sent to the Storage Operator in accordance with Article 3 of the T&C Storage Auction

POWER OF ATTORNEY

The Power of Attorney must satisfy all formal and substantive requirements applicable to the Participant, including those resulting from its place of incorporation.

Company name: _____

Jurisdiction of incorporation: _____

Company address (registered office): _____

Company VAT Number: _____

E-mail Address _____

[Company] ("Company"), validly represented by _____ and _____, hereby authorizes (appoint, name and constitute) the following persons (signature appearing beside of each authorized person being a true and correct signature), to act as a Bidder on behalf of the Company and only in case of Registration of the Company by the Storage Operator as a Participant, by signing below.

1. Name: _____

Title: _____

E-mail address: _____

Telephone number: _____

Signature: _____

Date: _____

[If applicable:]

2. Name: _____

Title: _____

E-mail address: _____

Telephone number _____

Signature: _____

Date: _____

Each of the Bidders granted with this power of attorney, in the name and on behalf of the Company, to do any of the following in relation to the Auction, acting alone:

1. Submit Bids and make and receive communications in relation to Bids of [Company] during the Auction;
2. Take any actions and do all things necessary or useful to fulfill obligations of [Company] arising from the Auction or otherwise required or appropriate under the Auction Rules for the Auction.

The undersigned Storage Users representative are duly authorized as director(s)] or [other title] of the represented Company to execute in its name and on its behalf this power of attorney, and due evidence of such authority is attached hereto. The undersigned Storage Users representative represent(s) that this power of attorney complies with all formal and substantive requirements applicable under the law of the jurisdiction of incorporation of the Represented Company including without limitation witnessing, legalization and authentication requirements.

Place, date: _____

Name: _____

Signature: _____

Place, date: _____

Name: _____

Signature: _____