

The Network Code for the National Gas Transmission System

*Processed version*

**ANNEX no. 1**  
(to the Network Code for  
The National Gas Transmission System - NTS)

**Gas transmission CONTRACT**  
**related to the entry points into the NTS (National Transmission System)**

no. ... of year..... month ..... day .....

The National Gas Transmission Company TRANSGAZ - S.A. Mediaș, headquartered in Mediaș, 1, Constantin I. Motaș Square, Sibiu county, post code 551130, telephone 0269/803333, fax 0269/839029, fiscal registration code RO13068733, registerea in the Trade Register under no. J 32/301/2000, holder of the account no. RO79RNCB0231019525310002, opened at the bank B.C.R. - Mediaș Subsidiary, legally represented by the Director General, Mr. Ion Sterian, in the capacity of provider of the transmission service, hereinafter referred to as the transmission system operator or TSO, on the one hand,

and

in the capacity of user of the National Transmission System (NTS) and beneficiary of the transmission services, hereinafter referred to as the network user or NU, on the other hand,

agreed to conclude the present transmission contract related to the NTS entry points, hereinafter referred to as the Contract.

I. Terminology and applicable legislation

ART. 1

(1) The terms used in the present contract are defined in the Energy and Gas Law no. 123/2012, as subsequently amended and supplemented, as well as in the Network Code for the National Gas

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Transmission System, approved by the Order of the President of the Romanian National Energy Regulatory Authority (ANRE) no. 16/2013, as subsequently amended and supplemented (the Network Code).

- (2) The provisions of this contract are complemented by the provisions of Law no. 287/2009 regarding the Civil Code, republished, as subsequently amended (the Civil Code), the Energy and Gas Law no. 123/2012, as subsequently amended and supplemented, and the ANRE regulations, including the provisions of the Network Code and the Technical Conditions for the operation of the metering points of the gas quantities the entry/exit to/from the NTS, hereinafter referred to as the „Technical Conditions“, as well as any other legal regulations in force. For all situations not explicitly provided for in this contract, the Network Code provisions are applicable.

II. - Scope of the contract

ART. 2

(1) The scope of this contract is the provision of natural gas transmission services, including the whole range of activities and operations carried out by the TSO for or in connection with transmission capacity booking at the NTS entry points.

(2) The contract entitles the NU to nominate/re-nominate/introduce into the NTS, at the entry points, gas quantities within the limit of the booked capacity.

(3) Through this contract the NU is entitled to use the booked capacity at the NTS entry points for the introduction of gas into the NTS for trading with notification in the VTP and/or transmitted at the exit points from the NTS, based on the transmission contract for the exit points from the NTS.

(4) The capacity booked at the entry points into the NTS is provided for in Annex no. 2 to this contract and is expressed in MWh/day.

(5) The application of the tariff for the capacity exceeding and of the tariff for non-ensuring the booked capacity shall be made in accordance with the provisions of the Network Code and of the applicable ANRE regulations.

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III. – Duration of the contract

ART. 3

The present contract is concluded for..... (one gas year, one quarter, multiple quarters, one month, multiple months, daily, multiple days) in the time frame .....

IV. Conditions of ensuring the firm capacities at the NTS entry points from the underground storage facilities.

ART. 4

The TSO, acting correctly and prudently, shall provide the firm transmission capacity booked by the NU at the NTS entry points from the underground storage facilities, throughout the contract duration.

V. The gas metering of natural gas at the point of entry into the NTS

ART. 5

The measurement of the quantities of natural gas is carried out continuously according to the provisions of the specific legislation, the determination of the quantities of energy entering the NTS taking place in accordance with the provisions of the Network Code.

VI. Applicable tariffs, invoicing and payment modalities and conditions

Art.6

- (1) The NU shall pay the TSO the value of the transmission capacity booked, calculated based on the capacity booking tariff applicable at the moment when the booked capacity may be used.
- (2) The TSO shall pay the NU the value of the transmission capacity not provided, calculated based on the capacity non-provision tariff applicable at the moment when the NU could not use the booked capacity.
- (3) The NU shall pay the transmission system operator additionally, as applicable, the tariffs established under the Network Code.
- (4) The tariffs referred to in paragraphs (1) and (2) are set out in <sup>Annex 1</sup> to the Contract.

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(5) Until the 15<sup>th</sup> day of the month following the month for which the transmission service was provided, the TSO shall send the NU separate invoices (hereinafter referred to as `monthly invoices`), as follows:

- a) an invoice for the transmission services provided for the previous month;
- b) an invoice for the booked capacity exceeding tariff value, calculated in accordance with Art. 99 of the Network Code, and/or for the tariff value for not providing the capacity booked, calculated in accordance with Art. 101 of the Network Code, if applicable;
- c) an invoice for the amount of the additional capacity, calculated according to Art. 51 of the Network Code, resulting after the nomination by the NU of a gas quantity exceeding the NU capacity booked at a NTS entry point.

(6) If the NU chooses to make an advance payment, the TSO shall issue and send the NU an advance payment invoice the value of which is equal to the value of the capacity booked, calculated for the service provision month, at least 5 calendar days before the prior to the start date of each month of services provision.

**ART. 7**

(1) Invoices issued according to Art. 6 (5) shall be paid within 15 calendar days from the date of issuance. If the due date is not a business day, the deadline is set on the next business day.

(2) Invoices issued according to Art. 6 (6) shall be paid until the transmission service start date, according to the advance payment invoice issued in this respect.

**VII. Invoicing and payment modalities and conditions for the daily transmission contracts<sup>1</sup>.**

**ART. 8**

(1) Prior to the beginning of the provision of the transmission services, the TSO issues an invoice, representing an advance, issued for the equivalent of the booked capacity for which the natural gas transmission services are provided.

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(2) The payment of the value of the invoice issued in accordance with paragraph (1) shall be made prior to the commencement of the provision of the transmission services.

**ART. 9**

The payment obligation is deemed to be fulfilled on the date of entry of the respective total amounts into the account of the transmission system operator.

<sup>1</sup> This clause applies only to daily transmission contracts.

**VIII. Rights and obligations of the TSO**

**ART. 10**

The TSO has the following rights:

- a) to collect from the NU the value of the services rendered and the late payment penalties;
- b) to execute the financial payment guarantee provided by the NU in the event of failure to pay at maturity of the invoices issued;
- c) to limit/interrupt the provision of transmission services, with prior notice, in the event of non-fulfilment of the payment obligations within the terms and under the terms and conditions stipulated in the present contract;
- d) to interrupt the provision of transmission services, if the NU does not comply with the provisions of the Network Code;
- e) to refuse to take into the NTS natural gas which does not comply with the minimum quality conditions stipulated in the Technical Conditions;
- f) to invoice the NU the value of the services provided, in compliance with the tariffs stipulated in the present contract, and, if necessary, the late payment penalties;
- g) to limit or interrupt the provision of transmission services in order to remedy the damage occurring in the NTS, informing the NU within maximum 6 hours after the TSO has been informed;

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- h) to limit the provision of transmission services to the level of the approved nomination, if the total energy take-over is higher than this nomination;
- i) to limit or discontinue the provision of the firm transmission services, if the NU does not comply with the provisions of Chapter X "Guarantees";
- j) all the other rights as provided for in the Network Code.

**ART. 11**

The TSO has the following obligations:

- a) to notify the NU of possible limitations/disruptions in the provision of transmission services in the event of non-fulfilment of the payment obligations;
- b) to resume the provision of the transmission services within 24 hours from the date of fulfilment of the payment obligations;
- c) to take over, transport and deliver to the NU the quantities of energy, with the observance of the conditions laid down in the bilateral conventions concluded according to art. 46 paragraph (6) of the Network Code and in accordance with approved nominations/re-nominations;
- d) to allow the NU access to the data/documents at underlying the issuance of the invoice in case the NU contests the invoice issued;
- e) to make available to the NU the capacity booked at the NTS entry points according to the contracted levels;
- f) to pay to the NU the tariff for non-ensuring the firm booked capacity;
- g) to answer and resolve the notifications of the NU concerning the provision of transmission services under the conditions provided for by the legislation in force;
- h) all the other obligations as set out in the Network Code.

**IX. Rights and obligations of the NU**

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**ART. 12**

The NU has the following rights:

- a) to use the capacity booked at the entry point into the NTS for the introduction of gas into the NTS in view of the trading by VTP notification and/or the transmission at the NTS exit points on the basis of the transmission contract related to the NTS exit points;
- b) to return voluntarily or to transfer the approved capacity in accordance with the provisions of the Network Code;
- c) to transfer quantities of natural gas in accordance with the provisions of the Network Code;
- d) to request and receive from the TSO the corresponding amounts for the non-provision of the booked capacity in accordance with the provisions of the Network Code, calculated on the basis of the tariff for non-provision of the booked firm capacity;
- e) to challenge the invoices issued by the TSO and to request the access to the data/documents underlying the issuance of the invoice;
- f) all the other rights as provided for in the Network Code.

**ART. 13**

The NU has the following obligations:

- a) to pay in full and in due time the invoices issued by the TSO in accordance with the provisions of the present contract and, where applicable, the related late payments;

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- b) to accept the limitation/interruption of the transmission service under the conditions stipulated in the present contract;
- c) to establish accurately the guarantees provided for in this contract;
- d) to announce the TSO, by means of the nomination/re-nomination, about the designated partner and, respectively, the corresponding amounts of energy;
- e) to take all necessary measures, through suppliers and system operators, to comply with the supply of energy to its customers, including to interruptible customers, in compliance with the laws in force;
- f) to deliver the natural gas at the entry into the NTS in compliance with the natural gas quality conditions provided for in the Technical Conditions;
- g) all the other obligations as set out in the Network Code.

**X. Guarantees**

**A. General provisions**

**ART. 14**

- (1) For the purpose of fulfilling their obligations under the Contract, either Party shall establish a guarantee for the other Party in accordance with the Network Code.
- (2) For fulfilling the obligation under paragraph (1), the TSO shall provide the credit rating.
- (3) The NU is exempted from the obligation to provide the payment guarantee to the TSO conditional on:



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- a) the proof of a credit rating issued by one of the rating agencies agreed by the TSO or at least at the same level as that of the TSO, valid for the duration of the Contract;
  - b) pays the transmission services in advance.
- (4) If, during validity of this Contract, either the NU rating or the agency agreed by the TSO changes, the NU shall notify the TSO within 3 working days from the change and shall prove the fulfillment of its guarantee obligations under this Chapter no later than 5 working days from the change.

**ART. 15**

(1) The payment guarantee shall be submitted by the NU as:

- a) a letter of bank guarantee in lei or the euro equivalent at the Central European Bank exchange rate on the guarantee issuing date (according to Annex 4) and/or
  - b) a guaranteed account (collateral deposit) in lei or the euro equivalent at the Central European Bank exchange rate on the guarantee issuing date and/or
  - c) an escrow account in lei or the euro equivalent at the Central European Bank exchange rate on the guarantee issuing date.
- (2) The TSO shall accept the letter of bank guarantee issued by a bank having a rating issued one of the following rating agencies: Standard&Poors, Moody's or Fitch, at least at the 'investment grade' level. The equivalence between the ratings of the three agencies is published on the TSO's website.

**ART. 16**

(1) If the NU proves the creditworthiness according to Art. 14 (3) (a), the TSO may, in certain justified cases, request the provision of a financial guarantee in accordance with Art. 15 or the advance payment of the payment obligations arising from the commercial relationship with the NU. The request for a guarantee or advance payment shall be made and explained in writing.

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(2) For the transmission services, a justified case is considered the situation when the NU has a delayed payment for an amount of at least 10% of the value of the last invoice or of the amount of the partial payment obligations after having received a notification from the TSO in this respect.

**B. Yearly and quarterly product**

**ART. 17**

- (1) The NU shall submit to the TSO the financial guarantee according to (2) at least 5 working days before the start of the transmission service.
- (2) The level of the financial guarantee provided by the NU shall be equal to the average value of the estimated monthly invoices for the transmission services for the following period of use.
- (3) The financial guarantee established in accordance with (2) shall be valid starting from the bank day preceding the transmission service commencement date and shall cease on the 60th calendar day following the expiry date of the Contract.
- (4) The NU may waive the option of establishing a transmission service guarantee by making advance payments. In this respect, the NU shall notify the advance payment option the TSO in writing, within 7 working days after the end of the booking period.
- (5) The advance payment amount shall be equal to the monthly invoice amount for the transmission services for the following period of use.
- (6) The advance payment/advance payment invoice shall be compensated with the settlement invoice of the month for which the payment was made.
- (7) If such advance payment does not cover the value of the settlement invoice for the respective month, the difference shall be paid by the NU on the invoice due date.

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(8) The NU may waive the advance payment option, subject to the provision of a financial guarantee according to Art. 14 (3) or Art.15.

**C. Monthly product**

**ART. 18**

(1) The NU has the obligation to submit to the TSO the payment financial guarantee in the amount provided for in paragraph (2) at least 3 working days before the start of the transmission service period.

(2) The level of the financial guarantee provided by the NU shall be equal to the estimated monthly invoice for the transmission services for the following period of use.

(3) The payment financial guarantee established in accordance with para. (2) shall be valid from the banking day preceding the date of commencement of the provision of the transmission service and shall cease to be valid on the 60<sup>th</sup> calendar day following the termination of the contract by its due date.

(4) The NU may waive the option of establishing a guarantee for the provision of the transmission service by making advance payments. In this respect, the NU shall, within a maximum of two working days from the date of the end of the capacity booking period, notify the TSO, in writing, of the advance payment option.

(5) The advance payment amount is equal to the monthly invoice for the transmission services for the next period of use.

(6) The advance payment/invoice are compensated with the settlement invoice for the month for which the payment was made.

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(7) If the advance payment in question does not cover the value of the settlement invoice for that month, the difference shall be paid by the NU on the due date of the invoice.

**D. Daily product**

**ART. 19**

For the daily product, the payment is made in advance, within 24 hours from the acceptance and signing of the transmission contract and before the start of the provision of the transmission services according to art. 7.

**ART. 20**

(1) The payment guarantee issued according to Art. 17 (1) shall be valid starting from the bank day preceding the transmission service commencement date and shall cease on the 60<sup>th</sup> calendar day following the expiry date of the Contract.

(2) If the level of the financial guarantee:

- a) decreases by more than 5% below the level specified in Art. 17 (2), the NU shall supplement the financial guarantee accordingly;
- b) is more than 5% above the level specified in Art. 17 (2), the TSO shall return to the NU the difference between the actual level of the guarantee and the one specified in Art. 17 (2).

(3) The payment guarantee shall be adjusted within no more than 5 working days from the date of recording of the diminishing/increasing as compared to the level specified in Art. 17 (2).

(4) The TSO shall be entitled to make claims against the guarantee under this Article within the limits of the damage incurred, unless the NU fulfills its contract obligations completely or partly or if it delays fulfilling such obligations.

(5) Prior to making any claim against such guarantee, the TSO shall notify the NU on the non-fulfilled obligations.

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(6) The TSO shall send the guarantee execution notification by fax within 24 hours from the expiration of the period set at Art.23 (1) (a).

(7) If the guarantee is executed partly or completely, the NU shall re-establish the guarantee within 5 days from execution.

## XI. Transmission programme

### ART. 21

- (1) The transmission program will be transmitted directly to the informational platform in accordance with the provisions of art. 27 letter B of the Network Code and will be set out in Annex no. 3 to this contract.
- (2) The transmission program may be modified in accordance with the procedure laid down in the Network Code.
- (3) The parties have the obligation to observe the minimum/maximum pressure at the NTS entry points, as provided for in the bilateral conventions concluded according to the provisions of the Network Code.

## XII. Confidentiality Clause

### ART. 22

(1) The parties are required to keep confidential the data, documents and information obtained from the performance of the contract.

- (2) The following data, documents and items of information are exempted from the provisions of para. (1):
- those that may be disclosed in accordance with the Network Code;

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- those for whose disclosure the written agreement of the other Contracting Party has been obtained;
- those required by the competent state bodies, based on a legal obligation of information.

(3) The provisions of this article shall remain in force for a period of five years after the termination of the contractual relations.

### XIII. Contractual liability

#### ART. 23.

(1) Failure to meet the invoice payment obligation as stipulated at Art. 7 (1) shall incur:

- a) delay penalties related to the unpaid amount, equal to the delay interest due for failure to pay the budgetary obligations in due time, for each day of delay, starting with the 16th calendar day from the invoice issuing date until its full payment, the payment date included, or until the execution of the guarantee stipulated by the contract, in case of failure to meet the payment obligation within 15 calendar days from the maturity date;
- b) in case of failure to meet the payment obligation, the limitation/interruption of the gas transmission service, with a prior notice of 3 calendar days, starting with the day following the period of 15 calendar days foreseen at letter a);
- c) the limitation/interruption of the gas transmission service, with a prior notice of 3 calendar days, starting with the day following the day when the sum of the Nu imbalances exceeds the value of the balancing guarantees.

(2) If the due date or the day following the warranty expiration date is a bank holiday, the terms foreseen at paragraph (1) shall be shifted accordingly.

#### ART. 24

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If, upon TSO's request, the NU does not voluntarily return/does not use the booked and not used capacity transfer facility, thus the mandatory capacity transfer being applied, NU shall pay 5% of the transferred capacity for the period between the date of mandatory capacity transfer and the date of Contract expiry.

**ART. 25**

- (1) The NU shall be entitled to request and receive an amount established based on the tariff for not ensuring the booked capacity, according to the Network Code, in case TSO does not keep at NU's disposal the entire transmission capacity booked by the latter;
- (2) If the amount in paragraph (1) does not cover the entire prejudice incurred, NU shall be entitled to request and receive damages, additionally, up to full coverage of the prejudice incurred when TSO does not meet its gas transmission services obligation as well as any other obligations established by this Contract.

**XIV. Force majeure / Fortuitous case**

**ART. 26**

- (1) Force majeure is that external, unpredictable, absolutely invincible and inevitable event that exonerates the parties from liability, under the conditions of art. 1.351 of the Civil Code.
- (2) If the force majeure event does not cease within 30 calendar days, the parties have the right to request the termination of the contract, without any of them having the right to claim compensatory damages.
- (3) The party invoking force majeure has the obligation to notify the other party, in writing, by notice within maximum 5 days from its occurrence, and proof of force majeure shall be communicated within 30 days of its occurrence.

**ART. 27**

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(1) The fortuitous case is an event that cannot be predicted or prevented by the party that would have been made liable if the event had not occurred.

(2) Parties are relieved of liability when the performance of an obligation has become impossible due to circumstances that are not attributable to the party that would have fulfilled it.

**XV. Cancellation and termination of the contract**

**ART. 28**

(1) The present contract is ceased and terminated:

a) by the execution of the contractual obligations;

b) upon the expiry of the contract duration;

c) ipso jure, in case of failure to meet one of the requirements regarding the access to the NTS transmission services, according to the Network Code, including in case of termination of the balancing and VTP access contract concluded between the TSO and the NU;

d) in case of voluntary return of the total approved capacity in accordance with the Network Code;

e) in the case of mandatory transfer of the total capacity approved under the conditions of the Network Code;

f) by termination in case of bankruptcy, dissolution, liquidation or withdrawal of the license, as the case may be, of the contractual partner;

g) for force majeure, according to the contract.



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(2) The termination of this contract has no effect on the contractual obligations arising from the performance of the contract until its termination.

(3) In the event of termination of the contract before the expiry of the term of validity, (1) lit. c) and f), the NU is obliged to pay the TSO the value of the contracted capacity products for the remaining period until the expiration of the contract validity period.

**XVI. Notifications**

**ART. 29**

- (1) The parties are obligated to notify each other to the headquarters provided in the introductory part of this contract of any change in the circumstances envisaged at the date of signature of this contract.
- (2) The deadline for notification shall be no more than 5 calendar days from the date of the change of circumstances, unless otherwise specified in this contract.
- (3) The notification means shall be determined by the Parties by mutual agreement, in accordance with the provisions of the Network Code.

**XVII. Applicable legislation and dispute settlement**

**ART. 30**

(1) The provisions of this contract are subject to and are interpreted in accordance with the Romanian legislation in force.

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(2) The parties agree that all misunderstandings regarding the validity, interpretation, execution and termination of the contract shall be settled amicably. If the disputes are not settled amicably, they will be settled by the competent courts of law.

## XVIII. Contract assignment

### ART. 31

(1) Neither party may in any way, in whole or in part, give to a third party any rights and/or obligations arising from this Contract except with the written consent of the other Party that cannot be unduly refused.

(2) The notification of the intention to assign is forwarded to the other party at least 10 working days prior to the planned assignment.

(3) The notified party shall be obliged to respond reasonably within a maximum of 5 working days from the date of registration of the notification.

## XIX. Other clauses

### ART. 32

(1) This contract may be amended or supplemented by an addendum in written form.

(2) By way of exception to the provisions of para. (1), this contract shall be automatically amended or supplemented with any modification or addition applicable to the gas transmission contract or to the TSO-NU

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contractual relation, provided by a national or European regulatory act, each party having the obligation to take over the respective modifications/additions.

ART. 33

The following annexes are inherent parts of this agreement:

- Annex no. 1 – Tariffs for the provision of the transmission services;
- Annex no. 2 – Capacity booking at the NTS entry points;
- Annex no. 3 - Transmission programme;
- Annex no. 4 – Bank guarantee letter template.

The present contract was concluded today, on ....., in two original counterparts, and each party declares to have received an original copy thereof.

Transmission System Operator

Network User

SNTGN TRANSGAZ S.A.