

**No. 39001/09.05.2024****Submitted for OGMS approval within the meeting dated 20/21 June 2024**

## REPORT

### on the approval of the appointment of

**ERNST& YOUNG ASSURANCE SERVICES SRL as financial auditor for a period of three years and the conclusion of the contract on the provision of financial audit services for the period 2024-2026**

### Summary

S.N.T.G.N. Transgaz S.A. is required to have the individual and consolidated annual financial statements audited in accordance with Order No 2844/2016 of the Ministry of Public Finance approving the Accounting Regulations in accordance with International Financial Reporting Standards.

According to the provisions of GEO no. 109/2011, Art. 47 point (1<sup>^</sup>1) the statutory auditors are appointed before the end of the financial year by the General Meeting of Shareholders.

The maximum period of audit of a public undertaking by the same financial auditor, natural or legal person, is 6 consecutive years.

Transgaz conducted an open tender procedure to contract specific financial audit services for the period 2024-2026 which resulted in the Association **ERNST& YOUNG ASSURANCE SERVICES SRL, leader - I.C.S. ERNST& YOUNG SRL, associate**, having been declared successful, with **ERNST& YOUNG ASSURANCE SERVICES SRL** being responsible for the provision of audit services specific to Transgaz and **I.C.S. ERNST& YOUNG SRL** being responsible for the provision of audit services related to the subsidiaries Eurotransgaz SRL and Vestmodtransgaz SRL owned by Transgaz in the Republic of Moldova.

According to the provisions of Article 62 (1) of the Law no. 162/2017 *on the statutory audit of the annual financial statements and annual consolidated financial statements and on the amendment of normative acts*, "The financial auditor or audit firm shall be appointed by the general meeting of

*shareholders of the audited entity. The statutory audit shall be carried out on the basis of the statutory audit contract which shall be concluded in writing after the date of appointment of the financial auditor or audit firm by the general meeting of shareholders of the audited entity."*

### **Proposal**

**According to the provisions of art. 15, para. 3 (k) of Transgaz' updated Articles of Incorporation, the appointment of ERNST& YOUNG ASSURANCE SERVICES SRL as Transgaz' financial auditor for a period of three years, the conclusion of the contract on the provision of financial audit services specific for the period 2024-2026 and the empowerment of Transgaz' Director-General to sign the contract are submitted to the Ordinary General Meeting of the Shareholders for approval.**

The legal basis underlying the obligation for the audit of the annual financial statements:

- Law no. 31/1990, on companies, republished as amended, art. 160 para. (1), providing that *"The financial statements of companies subject to the legal obligation for audit shall be audited by financial auditors - natural persons or legal entities - under the conditions provided for by the law";*
- Order of the Minister of Public Finance No 881/2012 on the application by companies with securities admitted to trading on a regulated market of International Financial Reporting Standards, Art. 4, according to which *"Individual annual financial statements prepared under IFRS are subject to statutory audit, in accordance with the law".*
- Order of the Minister of Public Finance No. 2844/2016 approving the Accounting Regulations in accordance with the International Financial Reporting Standards:
  - "Article 7*
    - (1)The individual annual financial statements prepared by entities under IFRS-compliant accounting regulations shall be subject to statutory audit as required by law.*
    - (2)The statutory audit, in accordance with the law, shall also cover the annual consolidated financial statements in accordance with IFRS, prepared by entities as parent companies.*

#### *CHAPTER 6*

##### *Section 6.1.*

*34. (1) Entities' annual financial statements are audited by one or more statutory auditors or audit firms.*

*(2)The statutory auditor(s) or audit firm(s) shall also:*

*a)express an opinion on:*

*i) the consistency of the Report of the Administrators with the annual financial statements for the same financial year; and*

*(ii) the preparation of the Report of the Administrators in accordance with the applicable legal requirements;*

*b) state whether, based on the knowledge and understanding gained in the course of the audit of the entity and its environment, they have identified any material misrepresentation(s) disclosed in the Report of the Administrators, indicating the nature of the misrepresentation(s).*

*35. (1) The provisions of paragraph 34 para. (1) shall also apply to the consolidated annual financial statements.*

*(2) The provisions of paragraph 34 (2) shall apply to the annual consolidated financial statements and to the consolidated reports of the administrators."*

At the same time, in addition to the audit of the annual financial statements, the financial auditor has other obligations, according to the specific applicable legislation for the years 2024-2026 required by:

- Law no. 24/2017 republished, as amended, on issuers of financial instruments and market operations, art. 108, para. (5): "*If significant transactions have been concluded, at the end of each half-year, the financial auditor/audit firm shall analyse the transactions reported during that half-year according to para. (1) and shall, within 30 days of the end of the reporting period at the latest, prepare a report assessing whether the transaction is fair and justified from the point of view of the issuer and non-affiliated shareholders, including minority shareholders, and explaining the assumptions on which it is based and the methods used.*"
- Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements for statutory audits of public-interest entities and repealing Commission Decision 2005/909/EC, Article 11: "*(1) Statutory auditors or audit firms carrying out statutory audits of public-interest entities shall submit a supplementary report to the audit committee of the audited entity no later than the date of submission of the audit report.*"
- Transparency Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC with the additions introduced by Commission Delegated Regulation (EU) 2018/815 as regards regulatory technical standards on the specification of a single electronic reporting format ("ESEF"). The annual financial report shall be prepared in

XHTML format and the consolidated financial statements shall be tagged with XBRL as required by law. The financial auditor shall express an assurance conclusion in relation to the ESEF.

- The funding contracts signed or to be signed by Transgaz and the requirements of the lending banks. The financial auditor is to communicate directly with the lending banks, if requested as authorised by Transgaz, and issue a certificate of compliance regarding the borrower's compliance with the financial commitments.
- Order No. 2844/2016 of the Ministry of Public Finance on the approval of IFRS-compliant accounting regulations, item 44, paragraph 1, i.e. "entities that are parent companies of a group which, as at the balance sheet date on a consolidated basis, exceed the criterion of having an average number of 500 employees during the financial year, shall draw up a sustainability report, which shall contain, to the extent necessary to understand the development, performance and position of the group and the impact of its activity, information on at least environmental, social and personnel issues, protection of human rights, anti-corruption and anti-bribery ...".
- By Order of the Minister of Public Finance No. 85/2024 published in the Official Journal No. 75 of 26 January 2024, following the submission of the tender documentation for publication into SEAP, the provisions of MPF Order No. 2844/2016 relating to sustainability and non-financial information contained in Chapter 7, were repealed and this regulatory act was supplemented by the general requirement that the statutory auditor "*expresses an opinion based on a limited assurance engagement regarding the compliance of sustainability reporting with applicable requirements, including the compliance of sustainability reporting with sustainability reporting standards adopted by the European Commission pursuant to Art. 29b or Art. 29c of Directive 2013/34/EU...*".
- Law No. 24/2017 on issuers of financial instruments and market operations, Art. 107 and Regulation of the Financial Supervisory Authority No. 5/2018 on issuers of financial instruments and market operations, as amended by Regulation of the Financial Supervisory Authority No. 13/2021, i.e. the issuer prepares a clear and understandable remuneration report which provides a comprehensive overview of the remuneration, including all benefits, in whatever form, granted or due during the last financial year, to individual managers, including newly recruited and former managers in accordance with the remuneration policy.

Transgaz has two subsidiaries in the Republic of Moldova, particularly the company is the sole shareholder of Eurotransgaz SRL of the Republic of Moldova and Eurotransgaz SRL has a 75 % share in Vestmoldtransgaz SRL ("VMTG"), remaining share of 25% in Vestmoldtransgaz SRL is owned by the European Bank for Reconstruction and Development ("EBRD").

According to the provisions of art. 47, point (1<sup>^</sup>1) of GEO no. 109/2011, "Statutory auditors are appointed, on the basis of transparent selection criteria, before the end of the financial year, by the general meeting of shareholders and, in the case of autonomous companies, by the supervisory public authority for a period of three years. In all cases, the maximum period of audit of a public undertaking by the same financial auditor, natural or legal person, shall be 6 consecutive years and shall be carried out in accordance with international auditing standards."

According to Article 62 (1) of the Law No. 162/2017 on statutory audit of annual financial statements and consolidated annual financial statements and amending normative acts, "The financial auditor or audit firm shall be appointed by the general meeting of shareholders of the audited entity. **The statutory audit shall be carried out pursuant to the statutory audit contract which shall be concluded in written form after the date of appointment of the financial auditor or audit firm by the general meeting of shareholders of the audited entity.**"

The company carried out an open tender procedure via SEAP for the award of the sectoral procurement contract *Financial audit services* by the publication of the participation notice no. CN1064957/ 06.02.2024 and of the awarding document no. DF1203121 / 05.02.2024, the bid submitted by the Association **ERNST& YOUNG ASSURANCE SERVICES SRL, leader - I.C.S. ERNST& YOUNG SRL, associate, was declared successful with a value of Lei 2.295.000 VAT excluded.** ERNST& YOUNG ASSURANCE SERVICES SRL will be responsible for the provision of audit services specific to Transgaz and **I.C.S. ERNST& YOUNG SRL** will provide audit services related to the subsidiaries Eurotransgaz SRL and Vestmodtransgaz SRL owned by Transgaz in the Republic of Moldova.

Considering the legislative changes concerning the replacement of the sustainability provisions with durability requirements, which occurred before the completion of the procurement procedure, the financial audit services contract will be updated by addendum after its execution.

According to Law no. 31/1990 on Companies, art. 111 (2), "In addition to debating other matters on the agenda, the general meeting is obliged: b<sup>^</sup>1) in the case of companies whose financial statements are audited to appoint or dismiss the financial auditor and to set the minimum duration of the financial audit contract".

In the light of the above-mentioned aspects, the following are submitted for the approval of Transgaz' Ordinary General Meeting of the Shareholders:

- a) Approval of the appointment of **ERNST& YOUNG ASSURANCE SERVICES SRL** as Transgaz' financial auditor;
- b) Setting the three-year duration of the financial audit contract for the provision of

- specific services for the years 2024, 2025 and 2026;
- c) Empowerment of Transgaz' Director-General to sign the contract.

Annex: Draft Contract on the provision of financial audit services for the period 2024-2026.

**Petru Ion VĂDUVA**  
**Chairman of the Board**

## SECTORAL SERVICE CONTRACT

no. \_\_\_\_\_ dated \_\_\_\_\_

### **Preamble**

This service sectoral procurement contract (hereinafter referred to as the "**Contract**") was concluded in compliance with GEO no. 99/2016 on sectoral procurements, as amended and supplemented (hereinafter referred to as "**Law no. 99/2016**") and Governmental Decision no. 394/2016 on the approval of the Rules for the application of the provisions for awarding sectoral/framework contracts under Law no. 99/2016 on sectoral procurements as amended and supplemented (hereinafter referred to as "**GD no. 394/2016**") between:

**The National Gas Transmission Company TRANSGAZ SA**, with the head office in Medias, no.1, Contantin I. Motas Square, phone: 0269-803333, fax: 0269-839029, e-mail: cabinet@transgaz.ro; registered with the Trade Register under no. J 32/301/2000, VAT no. RO13068733, Account IBAN no. RO09 RNCB 0231 0195 2531 0001, opened with the Romanian Commercial Bank Medias, represented by Mr. **STERIAN ION**, Director General, as **Purchaser**, on one hand,

And

**The company** ..... with the head office in....., str..... no....., phone....., fax: ....., registered with the Trade Register under no. ...., tax registration code RO ....., Account IBAN no: RO ....., opened with....., represented by \_\_\_\_\_ ....., as **Provider**, on the other hand.

Collectively referred to as "**Parties**".

### **Art. 1 Scope of the Contract**

1.1 The scope of the contract is the procurement of **Financial audit services** (hereinafter referred to as the "**Services**"), according to the provisions hereof, to the Contract documents, to the applicable laws, approvals and technical and quality standards as seen in the table below.

### **Art. 2 Contract Price**

2.1. The Purchaser undertakes to pay the price agreed in this Contract for **Financial audit services**, in the amount of lei ..... **for Financial Audit Services at SNTGN TRANSGAZ S.A.,** \_\_\_\_\_ **for Financial Audit Services at EUROTRANSGAZ SRL**

**and \_\_\_\_\_ for Financial Audit Services at VESTMOLDTRANSGAZ SRL**, to which VAT is added, according to the legal provisions.

2.2. The contract price is a maximum of lei ..... The Provider is entitled only to the value of the services ordered by the Purchaser and actually provided under this contract.

2.3. The prices in the Provider's financial proposal are firm in lei and shall not be adjusted upwards for the services related to 2024.

2.4. For services for the years 2025 and 2026, the prices/rates in the Provider's financial proposal may be adjusted, at the justified request of the Provider, by the inflation indices reported by the National Institute of Statistics for the period between the date of entry into force of the contract and the date of the Provider's request.

$P_a = P_i * CPI$  for the period from the date of entry into force of the contract to the date of the request

$P_a$  - discounted price

$P_i$  - initial contract price

CPI for the period from the date of entry into force of the contract to the date of the request - inflation index reported by the National Institute of Statistics for the period from the date of entry into force of the contract to the date of the request.

2.5. The price adjustment provided for in this Article shall be made by an addendum signed by both parties and shall apply to the remainder of the work to be performed.

2.6. The Purchaser will not pay other taxes, excises, tariffs or any other additional amounts to the price established in art. 2.1 of this Contract.

Articles applicable to non-residents:

2.7. If the Provider establishes a permanent office pursuant to the Romanian Fiscal Code and the Convention for the Avoidance of Double Taxation between Romania [country of residence of the Provider - if applicable], the Provider is responsible for the registration of its permanent office in Romania for purposes of income tax and revenue tax and shall comply with the relevant fiscal laws. The Purchaser will not be responsible for the payment of any tax whatsoever arising out of the Provider's breach of the legal provisions on permanent offices. The Provider shall indemnify and hold the Purchaser harmless of any payment liability resulted from the Provider's breach of the legal provisions on permanent offices.

2.8. Where Romanian law provides that the Purchaser has the obligation to withhold taxes applicable to payments made under this Contract, the Purchaser shall deduct the non-residents' revenue tax from the amount provided in the relevant invoice.

2.9. For the purpose of implementing the Double Taxation Treaty between Romania and [the country of residence of the Provider], the Provider shall submit the certificate of fiscal residence, to the Purchaser, prior to the first payment to be made to the Provider in original, or in certified copy, accompanied by an authorized translation into Romanian.

2.10. If the Provider is incorporated as an association (partnership) or other similar legal form which is fiscally transparent, the Provider shall submit to the Purchaser, together with the certificate of fiscal residence mentioned above, a list of all of its associates and their interest shares in the Provider's share capital. Based on such information the Provider will apply the provisions of the relevant Double Taxation Treaty for the abovementioned associates noted in the certificate of fiscal residence as fiscal residents in the relevant country. If one of the associates is a fiscal resident of a country different than the

Provider's fiscal residence country, the Provider shall deliver the applicable certificate of fiscal residence enabling the Purchaser to apply the relevant Double Taxation Treaty.

2.11. The Provider shall observe the following procedure for the submission of the certificate of fiscal residence: the certificate of fiscal residence shall be submitted on an annual basis. If payment is due in the Romanian fiscal year following the invoice issuing year, the Provider shall submit to the Purchaser, prior to the payment due date, a certificate of fiscal residence, in original, valid for the year when the payment is made.

2.12. Provider's failure to observe the provisions under art. 2.10 and 2.11 shall entitle the Purchaser to withhold the relevant tax in compliance with the Romanian applicable laws, and to deduct such withheld tax from any current or future invoice issued according to this Contract or according to any other agreement between the Parties. For the purpose of applying the provisions of this paragraph, the Parties shall construe the term "Romanian fiscal year" as the calendar year (from 1 January to 31 December). If the Romanian applicable laws change and the Romanian fiscal year as used by the Purchaser differs from the calendar year, the Purchaser shall notify the Provider accordingly, in writing, within maximum 20 (twenty) Days of such change.

2.13. Upon the Provider's request, the Purchaser shall submit, within 120 Days (from the receipt of the notification) a certificate or any other document issued by the relevant Romanian fiscal authorities certifying the payments made by the Provider in relation to the non-residents' revenue withheld tax, pursuant to this Contract.

2.14. If the Romanian fiscal laws change, any clause affecting any of the Parties, based on such change, shall be subject of negotiations between the Parties, within 15 (fifteen) days from the date of a written notification delivered by one of the Parties.

2.15. Upon the issue of the invoice, the Provider shall comply with the relevant EU legal provisions on VAT, applicable to the operations subject hereof. If the Provider fails comply with such obligations, the Purchaser shall be entitled to refuse payment.

### **Art. 3 Contract Duration**

3.1. The Contract is signed and shall be effective starting with its approval by the OGMS of SNTGN Transgaz SA.

3.2 The duration of this Contract is **36 months** from the date of entry into force of the Contract.

### **Art. 4 Contract performance**

4.1 (1) The performance of the Services covered by the Contract shall start from the date of entry into force of the Contract.

(2) In the event that the OGMS rejects the appointment of the Auditor, this Contract shall be automatically terminated with retroactive effect, and the parties shall be obliged to reimburse the services rendered hereunder.

4.2. The provision of financial auditing services will be carried out for the period 2024-2026.

4.3. The services covered by the Contract shall take the form of the provision by the Service Provider of the following:

#### **4.3.1. Financial audit services at SNTGN TRANSGAZ S.A.:**

4.3.1.1 Audit services in accordance with International Standards on Auditing, of the individual Annual Financial Statements, the Consolidated Annual Financial Statements of Transgaz prepared in accordance with International Financial Reporting Standards and OMF 2844/2016 and verification of the degree of compliance of the Consolidated Directors' Report attached to the Consolidated Annual Financial Statements of Transgaz for the financial year ended 31 December 2024, 31 December 2025 and 31 December 2026.

4.3.1.2 Audit services for the reporting of the financial statements in standardised ESEF format (European Single Electronic Format - ESEF) as at 31 December 2024, 31 December 2025 and 31 December 2026;

4.3.1.3. Limited review services of Transgaz' interim separate financial statements and interim consolidated financial statements in accordance with International Limited Review Standard 2410 as at 30 June 2024, 30 June 2025 and 30 June 2026.

4.3.1.4. Services to issue a Supplementary Report to the Audit Committee as at 31 December 2024, 31 December 2025 and 31 December 2026;

4.3.1.5. Services to issue a Supplementary report on the valuation of significant transactions reported, for legal acts completed in semester I and II year 2024, semester I and II year 2025, semester I and II year 2026;

4.3.1.6 Audit services related to the requirements resulting from the financing contracts signed with the company's creditors as at 31 December 2024, 31 December 2025 and 31 December 2026;

4.3.1.7. Audit services on the Sustainability Report as at 31 December 2024, 31 December 2025 and 31 December 2026;

4.3.1.7. Audit services on the Remuneration Report as at 31 December 2024, 31 December 2025 and 31 December 2026.

#### **4.3.2. Financial audit services at EUROTRANSGAZ SRL:**

4.3.2.1 Financial audit services in accordance with International Standards on Auditing on the individual and consolidated financial statements of the subsidiary Eurotransgaz SRL prepared in accordance with International Financial Reporting Standards as at 31 December 2024, 31 December 2025 and 31 December 2026.

4.3.2.2. Limited review services of the interim separate financial statements and interim consolidated financial statements of Eurotransgaz SRL in accordance with International Limited Review Standard 2410 as at 30 June 2024, 30 June 2025 and 30 June 2026.

#### **4.3.3. Financial audit services at VESTMOLDTRANSGAZ SRL:**

4.3.3.1 Financial audit services in accordance with International Standards on Auditing on the individual financial statements of the subsidiary Vestmoldtransgaz SRL prepared in accordance with International Financial Reporting Standards as at 31 December 2024, 30 June 2025 and 30 June 2026;

4.3.3.2 Statutory audit services in accordance with the National Accounting Standards of the Republic of Moldova and the Law no.108 of 27.05.2016 on the individual annual financial statements of the subsidiary Vestmoldtransgaz SRL as at 31 December 2024, 30 June 2025 and 30 June 2026.

4.3.3.3. Limited review services of individual interim half-year financial statements in accordance with International Limited Review Standard 2410 for Vestmoldtransgaz SRL as at 30 June 2024, 30 June 2025 and 30 June 2026.

4.4. The deadlines for delivery of deliverables are those mentioned in Chap. III of the Tender book.

#### **Art. 5 Contract documents**

The Contract documents are the following:

- a) The specifications
- b) technical proposal and financial proposal
- c) the proof of the performance bond establishment
- d) addenda, if any
- e) the association contract, if applicable;
- f) non-disclosure agreement, if any
- g) contracts concluded by the Provider with subcontractors named in the tender, where applicable;
- h) the third-party supporter's pledge of support and documents - annex showing how the third-party supporter will actually ensure fulfilment of its own pledge of support, as appropriate;
- i) addenda, where applicable.

#### **Art. 6 Methods of payment**

6.1 Invoices for each report shall be issued after the services have been rendered and the Reports covered by this contract have been delivered, based on the minutes of receipt of the Reports issued by the Provider and agreed by the Purchaser.

6.2 Invoices shall be paid by the Purchaser within a maximum of 30 days from their registration at the Purchaser's headquarters.

#### **Art. 7 Sanctions for culpable breach of obligations**

7.1 If the Provider does not execute, delays the execution of or fails to execute the obligations hereunder, the Provider shall be bound to pay to the Purchaser, as delay penalties, an amount of 0.05 of the non-provided Services value, for each day of delay, from the due date until the full and proper performance of obligations. The invoice related to such penalties is payable by the Provider within 5 days from the receipt thereof.

7.2 If the Purchaser fails to fulfil the payment obligations, the Provider is entitled to charge default interest of 0.05 of the unpaid invoice related amount, for each day of delay, until the actual fulfilment of the payment obligation.

7.3 The failure of the Provider to fulfil the obligations undertaken under the Contract, entitles the Purchaser to consider the Contract as terminated by default and to claim damages; The Provider is entitled to claim only the relevant payment of the contract part which has been fulfilled until the Contract termination date.

7.4 In case the sanction of termination occurs under the conditions of art. 7.3, the Provider owes to the Purchaser damages in the amount of 115% of the rest to be executed. The Purchaser is exempt from proof of damage in this case.

7.5 The Provider is in default by operation of law upon the mere expiry of the deadlines for the execution of the obligations under the Contract.

7.6. In the event that the Third-Party Supporter fails to fulfil its obligations under the firm commitment to support, the Provider's claim against the Third-Party Supporter shall be assigned by way of security to the Purchaser.

7.7. The civil liability of the Statutory Auditor or the Audit Firm for damages caused by negligence in the performance of, or in connection with, the Audit Engagement shall be limited to the value of 5 audit fees set out in the Audit Contract, payable by the Client to the Statutory Auditor or the Audit Firm in accordance with the provisions of the Audit Contract, except in cases of intent or gross negligence of the Provider.

#### **Art. 8 Contract Performance Bond**

8.1 The performance bond shall be established within 5 working days from the date the contract is signed. This period may be extended at the justified request of the contractor, but not more than 15 days from the date on which the contract is signed. The amount of the contract performance guarantee is 10% of the contract value excluding VAT, i.e. .... The performance bond shall be established in accordance with the provisions of art. 164 para. 4 of Law no. 99/2016 on sectoral procurement, as amended. The validity of the bond shall expire 30 days from the date of issue of the last report of each contracting authority under the contract. In the event of revision of the contract value, the performance bond shall be supplemented accordingly.

8.2 The duration of the Performance Bond shall cover the Contract validity period, plus 14 days.

8.3 The Purchaser shall release the participation guarantee only after the Provider has provided the proof of having established the Performance Bond.

8.4 The Purchaser shall raise claims against the Performance Bond, within the limits of the incurred prejudice, if the Provider, by default, fails to execute, delays the execution or improperly executes the obligations under the Contract. Before raising claims against the Performance Bond, the Purchaser shall notify both the Provider and the guarantee issuer accordingly, also specifying the breached obligations and the way the damage is calculated.

8.5 The Purchaser shall discharge the Performance Bond within maximum 14 days from the date the Provider has fulfilled the obligations under the Contract, if the Purchaser has not raised any claims against it by that date.

8.6 Partial payments made under this Contract shall not imply a proportionate reduction of the performance bond.

8.7 If the Contract duration is extended, the Provider shall extend the Performance Bond accordingly.

8.8 If, during the Contract execution, the Purchaser fully or partially draws on the Contract Performance Bond established by the date of its drawing on, the Provider shall reunify or re-establish it in relation to the remaining execution period, within maximum 5 (five) days from its drawing on. If the Contractor does not fulfil this obligation, then the Purchaser has the right to send a notice of termination, without any further formalities, 10 (ten) days before the termination date.

## **Art. 9 Definitions**

**Purchaser and Provider** – means the Contracting parties, as defined herein;

**Contract** – means this legal document representing the Purchaser's and the Provider's agreement, together with the Annexes hereto as well as with the Contract documents as listed at art. 5;

**Force Majeure** – is the event defined at art. 1.351, paragraph (2) of the Civil Code;

**Contract price** – means the price which the Purchaser is due to pay to the Provider, under this Contract, for the proper and entire performance of all obligations hereunder;

**Acceptance report** - means a document signed by the Purchaser and the Provider, based on the contract, certifying that the Services have been delivered, stating whether or not non-conformities have been discovered as compared to the contract documents;

**Services** – refers to the activities under the scope of work hereof;

**Day** – calendar day; *year* - 365 days.

## **Art. 10 The Provider's obligations**

10.1 The Provider shall provide the services subject hereof within the agreed period and according to the standards and/or performances under the Contract documents.

10.2 The Provider shall supervise the service provision, shall assure the manpower, the materials, equipment, machines and all other similar items, whether provisional or permanent, as required by and for the purpose hereof, to the extent that the need to ensure the above-mentioned aspects is contemplated herein or may be reasonably inferred from the Contract.

10.3 The Provider is fully liable for the provision of Services according to the performance schedule agreed between the Parties/undertaken deadlines upon the Contract conclusion and for the safety of all operations and provision methods used, as well as for the qualification of the personnel employed during Contract execution.

10.4 The Provider shall refrain from making any public statements, unless based on the Purchaser's prior consent, and from engaging in any activity which is in conflict with its obligations hereunder towards the Purchaser.

10.5 The Provider shall comply with the labour conditions and labour protection regulations and, if appropriate, with the international labour standards, with the conventions for freedom of association and collective negotiations, abolition of forced and binding labour, abolition of employment discrimination, labour occupation and abolition of child labour.

10.6 The Provider shall submit reports/minutes/any other documents according to the Tender book/ Technical Specifications.

10.7 The Provider shall comply with all applicable Romanian laws and regulations and shall ensure that its in-house or out-sourced personnel, its management staff or any other person involved by the Provider in the execution hereof shall comply with and shall be subject of the same laws or regulations.

10.8 The Provider shall indemnify the Purchaser in case of any claims or lawsuits resulted from any breach of the applicable provisions by the Provider, its in-house or out-sourced personnel, its management staff or any other person involved by the Provider in the execution hereof.

10.9 If the Provider is a joint venture of two or more persons, all such persons shall be jointly and severally liable for the performance of the obligations under the Contract. The person appointed by the association to act on behalf of or under the Contract shall have the authority to represent and contractually bind the association.

10.10 Change of the leader of the association must be notified to the Purchaser.

10.11 The Provider shall indemnify the Purchaser against any:

- a) claims and law suits resulting from the breach of intellectual property rights (patents, copyrights, trade marks, etc.) with respect to the equipment, materials or the tools used for or in relation to the purchased products, and
- b) related compensation, costs, charges and expenses whatsoever related to any potential breaches of the intellectual property right.

### **Art. 11 The Purchaser's obligations**

11.1 The Purchaser shall pay the price under art. 2 by the deadlines and according to the conditions hereunder.

11.2 The Purchaser shall accept the rendered services within the agreed term, pursuant to art. 13 hereof.

11.3 The Purchaser shall make available to the Provider, within a reasonable deadline, any information required under the technical proposal and deemed necessary for the execution hereof.

### **Art. 12 Start-up, completion, delays and suspension in the provision of the Services**

12.1 The Provider shall start to provide the services according to art. 4 hereof.

12.2 The services under the Contract or, if appropriate, any relevant milestone estimated to be finalized within a period under the service performance schedule/deadlines shall be completed within the term as agreed by the Parties.

12.3 In the event of the occurrence of circumstances that a contracting entity acting diligently could not have foreseen, conditions that fall within the provisions of art.235-243 of Law no.99/2016 so as not to represent a substantial change in the Contract, the Purchaser has the right to cease the provision of the services or a part of them until the date on which the circumstances that determined the cessation ceased. In this situation, the Provider will be notified about the cessation of the provision of the Services.

12.4 During the termination of the services, the term of execution and the duration of the Contract do not run (they are suspended), and will be resumed on the date of termination of the cause of termination. The period of validity of the performance guarantee will be extended accordingly. At the end of the case that imposed the suspension, the date of resumption of the provision of the Services and the new contractual terms will be communicated by notification.

12.5 The order to terminate the provision of the Services will be issued exclusively by the Purchaser.

12.6 If, during the performance of this Contract, the Provider fails to meet the service performance schedule/deadline, it shall notify it to the Purchaser, within maximum 3 days before the deadline of the obligation. If the Purchaser, following an analysis, considers that the provision of services may change, the modification of the delivery term/periods undertaken in the delivery schedule is made with the agreement of the Parties, by

addendum, based on a motivation within the limits established by the sectoral procurement laws.

### **Art. 13. Acceptance and checks**

13.1 The Purchaser is entitled to check the way services are provided in order to verify their compliance with the Contract documents.

13.2 The checks shall be conducted according to the provisions of the awarding documentation.

13.3 The Purchaser shall notify the Provider, in writing, of the identity of its representatives empowered for this purpose

13.4 Acceptance of the Services covered by this contract implies receipt of the Financial Audit Service Reports described in the tender specifications..

13.5 The operations under art. 13.4 shall be subject of a report prepared by the Purchaser – signed both by the former and by the Provider. If the Provider refuses to sign the report, this shall be stipulated therein. A copy of the report shall be delivered to the Provider within maximum 5 days from the date of preparation.

13.6 The Provider shall remedy all notified discrepancies according to the reasonable deadline set by the Purchaser, after the report under art. 13.6 has been acknowledged by the Provider.

### **Art. 14 Amendments**

14.1 The Parties shall have the right, during the performance of this Contract, to agree on changes hereto, by addendum, within the limits of the provisions under art. 235-243 of Law 99/2016.

### **Art. 15 Subcontractors/Third-party supporters**

15.1 If the Provider sub-contracts parts of the Contract, it shall conclude contracts with the designated subcontractors, under the same conditions as the the ones under the Contract concluded with the Purchaser.

15.2 The Provider shall submit, upon Contract termination, all contracts concluded with the designated sub-contractors. The list of subcontractors, with their identification details, and the relevant concluded contracts shall be annexes to the Contract. The Provider will communicate to the Purchaser the activities of the subcontractors, as well as the amounts related to their services.

15.3 When a subcontractor expresses the option to be paid directly, according to art. 232 of Law no. 99/2016, the Purchaser will pay him the part of the contract related to his service, as it results from the provisions of art. 15.2. of the Contract, of the contract documents and supporting documents confirming the provision of the services by the subcontractor.

15.4 The Provider shall be fully liable to the Purchaser for the way the sub-contractor(s) execute(s) the Contract.

15.5 The Provider may involve new sub-contractors/may change any sub-contractors, provided that their involvement/change does not represent a substantial amendment of the sectoral Contract and only after the Purchaser's consent has been granted. The change/introduction of sub-contractors shall be based on the Purchaser's explicit consent,

following a notification in this respect to the Purchaser, and shall not amend the Contract price.

15.6. The Provider is required to submit at the time of the conclusion of the Contract all the support commitments entered into with the third party supporters designated in the tender.

#### **Art. 16 Force Majeure**

16.1 The Force Majeure will hold the Parties harmless against any liability if the obligations under the contract are fully or partially unexecuted, according to art. 1.351 of the Civil Code.

16.2 The Force Majeure shall be confirmed by a competent authority.

16.3 The Party invoking force majeure shall notify it to the other party, in writing, within maximum 5 (five) days from its occurrence and the proof of Force Majeure shall be notified within maximum 10 (ten) days from its occurrence. The proof shall be certified by the Romanian Chamber of Commerce and Industry. The Party invoking force majeure shall notify the termination of the cause thereof to the other Party within maximum 15 (fifteen) days from termination.

16.4 If such circumstances and their consequences last longer than 30 days, each party may abandon Contract execution. In such circumstances, neither Party is entitled to claim damages to the other; regardless, they shall fulfil all their obligations under the applicable laws and under the Contract by the relevant date.

#### **Art. 17 Contract termination**

17.1 This Contract shall cease to be effective under the following conditions:

- a) entire execution
- b) expiration of the deadline under art. 3 hereof
- c) based on the Parties' agreement
- d) by termination, according to art. 7.3, art 8.8.
- e) by unilateral denunciation, in the cases provided by art. 243 and art. 244 of Law no. 99/2016 on sectoral procurement.

17.2 The Purchaser reserves its right to terminate the Contract, by written notification delivered to the Provider, if bankruptcy proceedings are launched against the latter and the Provider shall claim only the payment of the Contract part executed by the date of the unilateral termination of the Contract.

#### **18. Dispute settlement**

18.1 The Purchaser and the Provider shall make their best efforts to amicably settle any controversies or disputes which might arise between them as a result of or in relation to the Contract, by direct negotiations.

18.2 If, after 15 days from the start of the negotiations, the Purchaser and the Provider fail to amicably settle a dispute, each party is entitled to request dispute settlement by the competent Romanian Courts.

#### **19. Governing law**

19.1 This Contract is governed by the Romanian law.

19.2 If this Contract is concluded in several languages, the Romanian version shall prevail.

## **20. Notifications**

20.1 Any communication between the Parties with respect to the performance of this Contract shall be delivered in writing.

20.2 Any written document must be registered both on transmittal and on receipt.

20.3 The Parties may communicate by phone, fax or e-mail, subject to a written confirmation of receipt.

20.4 Any notification by one of the Parties:

a) shall be prepared in writing and personally served by the Party or delivered by recorded delivery post or by any other means of communication ensuring confirmation of receipt to the following addresses:

### **For the Purchaser: SNTGN TRANSGAZ SA**

Address: Mediaş, C. I Motaş Square no. 1, Sibiu county

Email: [cabinet@transgaz.ro](mailto:cabinet@transgaz.ro)

Contact person: Serban Lucia; [lucia.serban@transgaz.ro](mailto:lucia.serban@transgaz.ro)

### **For the Provider:**

Address:

Email:

Contact person:

b) Shall be considered as received, unless otherwise provided for in the Contract, upon serving, if personally served by one of the Parties, upon receipt by the addressee, if delivered by recorded delivery post, or upon the receipt of the confirmation by the sender, if the notification is delivered by fax (unless the transmittal occurred on an unworking day – case in which the notification will be deemed received at the beginning of the following working day)

20.5 The Parties agree that the breach of the requirements under the above paragraph shall render the notification as unenforceable.

20.6 The modification of the Parties' identification data, as contemplated herein, shall be opposable to the other Party only if previously notified in compliance with the above-mentioned requirements.

## **Art. 21 Confidentiality**

21.1 Neither Party, without the written consent of the other Party, shall:

a) disclose this Contract or any provisions hereof to third parties, except for the relevant persons involved in the performance hereof, except for the parts of the Contract that were made public by the Purchaser prior to the signing of this Contract;

b) use the information and documents acquired or granted access to, during the period of execution hereof, for purposes other than the fulfilment of the obligations hereunder.

21.2 Any information shall be disclosed to the persons involved in the Contract performance on a confidential basis and shall cover only the information required for the execution hereof.

21.3 A Party shall be released from any liability for disclosure of information related to the Contract if:

- a) the information was known by the Party before having been received from the other Party
- b) the information was disclosed based on the written consent of the other Party; or
- c) the Party was legally obliged to such disclosure.

## **Art. 22. Intellectual property rights**

22.1. All reports become the property of the Purchaser.

22.2. Any results or rights, including copyrights or other intellectual or industrial property rights, acquired in performance of the Contract will be the exclusive property of the Purchaser, who may use, publish, assign or transfer them as he sees fit, without geographical limitation or of another nature, except in situations where such intellectual or industrial property rights already exist prior to the performance of the Contract.

22.3. The Provider will not publish articles about the services and will not refer to them when performing any services for third parties.

## **Art. 23 Explicit acceptance of the standard clauses**

23.1 Having acknowledged the provisions of art. 1.203 of the Civil Code, the Parties declare that they understand and accept the provisions of this Contract.

## **Art. 24 General provisions**

24.1 The total or partial invalidity, cancellation, nullness of one of the clauses shall not entail the invalidity, cancellation or nulness of the entire Contract.

## **Art. 25 Interpretation**

25.1 Unless otherwise provided for herein, the singular word shall include plural and vice-versa, where permitted by the context.

25.2 The term "day" or "days" or any other reference to days shall refer to calendar days, unless otherwise provided for herein and the terms shall be calculated according to art. 2.553 of the Civil Code.

## **Art. 26 Provisions on the protection of personal data**

26.1. When processing personal data in connection with the Contract, each Party undertakes to comply with the applicable law on the protection of personal data, respectively with Regulation no. 679/2016 and with any generally binding rules adopted in connection with the protection of personal data.

26.2. Each Party, to the extent that it discloses to the other Party personal data concerning its employees or representatives for the purpose of performing the Contract, shall ensure that it discloses only the information necessary for this purpose.

26.3. Each Party will request from the other Party only the personal data necessary for the execution of the Contract and, insofar as there is another purpose for which it requests the personal data, it shall justify this request by providing the information required by the applicable law, respectively by art. 13-14 of Regulation no. 679/2016 and/or any article or norm that replaces or supplements such provisions.

26.4. Each Party who discloses personal data of its employees/representatives shall ensure that it has provided them with the information provided in art. 13-14 of Regulation no. 679/2016 and/or of any article or rule that replaces or supplements such provisions.

26.5. For the avoidance of doubt, the Parties acknowledge and agree that each Party shall determine, independently, the purpose(s) and means of processing personal data in connection with the Contract, acting as an operator within the meaning of Article 4 paragraph 7 of Regulation no. 679/2016.

26.6. In the event of circumstances in which either Party acts as a proxy of the other Party, or as an operator associated with the other Party in connection with the Contract, the Parties undertake to enter into a binding agreement in accordance with the provisions of Articles 26 and 28 of Regulation no. 679/2016 and/or of any article or rule that replaces or supplements these provisions.

26.7. Each Party shall independently undertake responsibility for the processing of personal data. Violation by a Party of the provisions of this act as well as of the provisions of Regulation no. 679/2016 and the generally binding rules adopted in connection with the protection of personal data, cannot be considered a common infringement and cannot generate joint and several liability towards the person or entity who finds this infringement.

**Art. 27. Representation**

27.1. The Parties' representatives – signatories hereof – warrant that they have the legal competence to execute this Contract and that such conclusion is within the limits of the power assigned to them by the representative of each.

The Parties agreed to execute this Contract today, ....., in 2 (two) counterparts, one for each Party.

**PURCHASER**

**PROVIDER**

**S.N.T.G.N. TRANSGAZ S.A.  
DIRECTOR GENERAL  
ION STERIAN**

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