# ANNEX

**METHODOLOGY**

**for the Isaccea III – Negru Vodă II gas transmission pipeline capacity allocation**

**and tariff setting**

**Chapter I.** **Capacity allocation method**

**Art. 1** – (1) The National Gas Transmission Company Transgaz S.A. Mediaş, hereinafter referred to as `S.N.T.G.N. Transgaz S.A.`, offers quarterly and monthly standard capacity products, as defined by Regulation (EU) No. 984/2013 of the Commission of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation (EC) No. 715/2009 of the European Parliament and of the Council, at the Isaccea III and Negru Vodă II interconnection points, between 1 January 2016 and 1 October 2016 of gas year 1 October 2015 – 1 October 2016.

(2) The terms and expressions used herein are defined in Regulation (EU) No. 984/2013 of the Commission of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation (EC) No. 715/2009 of the European Parliament and of the Council.

(3) The quarterly and monthly standard capacity products are offered under the principle of equality between the Isaccea III interconnection point requested/booked capacity and the Negru Vodă II interconnection point requested/booked capacity.

(4) The capacity for each quarter, starting with quarter two of gas year 2015 - 2016 (1 January – 1 April 2016) and ending in the last quarter of gas year 2015 – 2016 (1 July – 1 October 2016), is offered based on the yearly auction of the quarterly capacity.

(5) The capacity for each month is offered based on the rolling auction for monthly capacity.

(6) The provisions of paragraphs (1) to (4) are applied for the firm and interruptible unbundled capacities.

(7) Interruptible unbundled capacity is offered within the limit of the firm unbundled capacity booked and in accordance with the conditions agreed with the neighbouring transmission systems operators under the agreements concluded with the neighbouring transmission system operators (`TSO`).

(8) The capacity offered is expressed in kWh/day in the reference conditions 0°C/25°C. The gas day is the period between 8.00 a.m., the Romanian time, of any day, and 8.00 a.m., the Romanian time, of the following day. The gas day shall be reduced to 23 hours when daylight saving is applied and is increased to 25 hours in winter; all rights and obligations resulting from the gas transmission contracts are increased or diminished accordingly on the relevant gas days.

**Art. 2** – (1) The technical parameters of the Isaccea III and of the Negru Vodă II interconnection points and the exit and entry firm and interruptible unbundle capacity available is published at [www.transgaz.ro](http://www.transgaz.ro), the website of S.N.T.G.N. Transgaz S.A., according to Annex 1, as established under paragraphs (2) and (3).

(2) For the yearly auction of the quarterly capaity S.N.T.G.N. Transgaz S.A. publishes the capacity volume to be offered for each quarter at [www.transgaz.ro](http://www.transgaz.ro), `Client information`, two weeks prior to the auction, according to Annex 2.

(3) For the rolling auction of the monthly capacity S.N.T.G.N. Transgaz S.A. publishes the capacity volume to be offered for the next month at [www.transgaz.ro](http://www.transgaz.ro), `Client information`, one week prior to the auction, according to Annex 3.

**Art. 3** – (1) The capacity offered is allocated based on a multi-round ascending clock auction, as described at Art. 9.

(2) The firm and interruptible unbundled capacity allocated at the Negru Vodă II interconnection point is considered also allocated at the Isaccea III interconnection point.

**Art. 4** – The auctions are held at the headquarters of S.N.T.G.N. Transgaz S.A., according to the auction notice published at [www.transgaz.ro](http://www.transgaz.ro), `Announcements`. .

**Art. 5** – The auctions for the standard capacity products offered according to the Methodology shall be held as established in the auction calendar published by the TSO at [www.transgaz.ro](http://www.transgaz.ro), `Client information`..

**Art. 6** - (1) In order to participate in the auction, each network user must communicate to SNTGN Transgaz SA 4 days before the starting of the auction, the maximum amount it is able and willing to pay for the capacity it intends to book, taking into account the reserve price and the price step mentioned in the auction notice.

(2) Within two working days from the date of the communication by the network user of the amount under paragraph (1), SNTGN Transgaz S.A. communicates to the network user either the acceptance of the amount specified or the amount SNTGN Transgaz SA is able to accept in this regard, the accepted amount representing the credit limit of such network user.
(3) The credit limit granted to the network user for its participation in the auction is guaranteed by the network user by a letter of guarantee issued by a bank having a rating granted by the rating agencies Standard & Poor`s, Moody’s or Fitch, at least at the investment grade level or as a guaranteed account (collateral deposit).

(4) The letter of bank guarantee is valid 60 days from the auction opening date and will be returned to the network user which established such guarantee within 5 days from the performance bond establishment date in the amount and according to the terms stipulated in the transmission contract under Annex 4. The transmission system operator is entitled to execute the letter of bank guarantee when the network user refuses to sign the transmission contract or does not establish the performance bond under the contract.

**Art. 7** (1) The bids of the network users for capacity products for the Negru Vodă II interconnection point may be submitted, changed or withdrawn within the daily bidding rounds, between 8:00 a.m. – 3:00 p.m., the Romanian time.

(2) The bids of the network users must be submitted signed/stamped and scanned at the e-mail address mentioned by SNTGN Transgaz S.A. on its website.

(3)If the internet connection is unavailable, the signed/stamped bids must be sent by fax at the number mentioned on the website of SNTGN Transgaz S.A..

**Art. 8** – (1) The bids submitted by network users in each auction must be accompanied by the following documents:

1. the identification data of the network user submitting the bid, as appropriate;
2. the letter of bank guarantee or the guaranteed account in favour of the transmission system operator, setting a credit limit to be granted by the transmission system operator to the network user for participation in the auction;

(2) The bids must mention:

* 1. the interconnection point and the direction of the flow;
	2. the capacity product for which it is requested the capacity;
	3. the requested capacity in kWh\*/day (0°C/25°C) by price step/steps;

\* The capacity in energy units is obtained by using the annual average GCV published at [www.transgaz.ro](http://www.transgaz.ro), the website of SNTGN Transgaz S.A.

The bid form is available on the website of the TSO.

(3) The documents under this Methodology shall be communicated in accordance with the auction notice published at [www.transgaz.ro](http://www.transgaz.ro), `Announcements`.

(4) Bids under the reserve price T0 are not accepted.

 **Art. 9** – The ascending clock algorithm is based on the following principles:

1. If several capacity products are offered in an auction, the auction algorithm is applied separately for each standard capacity product auctioned; the bids for different standard capacity products are considered independent from each other when applying the auction algorithm;
2. Ascending clock auctions allow network users to submit bids against the ascending prices announced within the successive daily bidding rounds, starting with the reserve price T0 used in the first bidding round;
3. The reserve price T0 for each standard capacity product auctioned is expressed in RON/kWh/quarter or in RON/kWh/month depending on the standard capacity product auctioned and is calculated by multiplying the reserve price under Art. 19 with the number of product hours. Each announced price step is obtained by a 5% increase of the previous price step;
4. No modification, withdrawal or variation of the bids is accepted following closure of relevant bidding round, and all of the valid bids are considered binding bids of a network user to book the capacity requested to the price step announced, provided the clearing price of the auction is the one announced in the relevant bidding round;
5. To participate in an auction each network user must submit a bid against the reserve price (T0);
6. The capacity bid submitted by a network user in any bidding round must be equal to or lower than the capacity offered in the relevant auction; the capacity bid submitted by a network user against a certain price step must equal to or lower than the capacity bid submitted by such network user in the previous bidding round; the bids submitted by a network user in any auction round which are not within the credit limit granted to such network user according to Art. 6 shall be rejected;
7. The capacity bids may be submitted, modified or withdrawn freely in a bidding round, provided that all bids comply with the provisions of letter f); the bids compliant with the provisions of letter f) remain valid until their modification or withdrawal;
8. If at the end of the first bidding round the aggregate bid of all network users is lower than or equal to the offered capacity, the auction will close; in this case the auction clearing price is the price announced for the bidding round in which the auction is closed;
9. If at the end of the first bidding round or of a subsequent round the aggregate bid of all network users is higher than the offered capacity, a new bidding round will be opened with a price equal to the previous bidding round price to which the price step is added;
10. If at the end of the second bidding round or of a subsequent bidding round, the aggregate bid of all network users is lower than or equal to the offered capacity, the auction will close; in this case the auction clearing price is the price announced for the last bidding round in which the auction is closed;
11. After each bidding round S.N.T.G.N. Transgaz S.A. publishes provisional information regarding the bids of all network users, aggregated by each price step, and the auction status on its website, [www.transgaz.ro](http://www.transgaz.ro), after 3.00 p.m., the Romanian time;
12. All network users having valid capacity bids at the clearing price will receive capacity according to their bids against the clearing price;
13. S.N.T.G.N. Transgaz S.A. publishes the final result of the auction, including the aggregate capacities allocated and the related clearing price on its website, [www.transgaz.ro](http://www.transgaz.ro), within 5 calendar days from the closing of the auction. The winning network users are informed on the allocated capacities and the draft contract under Annex 4;
14. If an ascending clock auction is not closed until the time of the next planned auction for the capacity for the same period, the first auction closes and no capacity is allocated. The capacity will be offered in the next auction.

**Chapter II.**  **Tariff setting for the gas transmission services** **regarding the Dn1200 Isaccea III – Negru Vodă II pipeline, without transhipment on the Romanian territory between 1 January and 1 October 2016.**

**Art.10** (1) The tariff system for the Dn1200 Isaccea III – Negru Vodă II pipeline gas transmission activity consists of a set of transmission tariffs for entry/exit capacity booking established for the pipeline delimitation points, at the entry in the point in which capacity is booked, hereinafter referred to as the `entry point`, and at the exit from the point in which capacity is booked, hereinafter referred to as the `exit point`, and of a volumetric transmission tariff for pipeline use for a gas quantity.

(2) Transmission tariffs represent the countervalue of the gas transmission services provided for transmission capacity booking in entry/exit points and for using the transmission system for an amount of gas having an energy content equivalent to 1 kWh. The gas shall comply with the minimum specifications of quality, pressure and temperature set in the agreements concluded with the neighbouring TSOs.

 (3) The Dn1200 Isaccea III – Negru Vodă II pipeline gas transmission services for which transmission tariffs are set are the following:

a) short-term firm/interruptible transmission services, contracted for a quarter;

b) short-term firm/interruptible transmission services, contracted for a month.

(4) The transmission tariffs do not include the VAT.

**Art.11** For the calculation of the transmission tariffs it is established the total income of the gas transmission services provided for transmission capacity booking by the entry/exit points and for the using of the Dn1200 Isaccea III – Negru Vodă II pipeline between 1 January and 1 October 2016.

**Art.12** (1) The total income is set based on the benchmark analysis and on the transmission tariffs applied in EU countries with transmission conditions similar to the profile of the Dn1200 Isaccea III – Negru Vodă II pipeline and similar offer of services over a period of 12 calendar months.

(2) At the preparation of the benchmark analysis the tariffs of the companies applying the same tariff system (entry/exit) in high pressure networks and the situation corresponding to the profile of the Dn 1200 Isaccea III – Negru Vodă II pipeline as follows:

a) quantity transmitted;

b) load factor: 8,000 hour/year;

c) pipeline length: 200 km.

(3) For the calculation of the total income it will be used the average minimum values of the hourly tariffs analyzed, the hourly capacity available and the number of hours of the period for which the services are provided.

(4) The income at paragraph (3) is at the basis of the calculation of the capacity booking component and of the volumetric component for the Dn1200 Isaccea III – Negru Vodă II pipeline.

**Art.13** (1) For the calculation of the transmission tariffs, of the capacity booking tariffs and of the volumetric transmission tariff, the total income is allocated in the capacity booking component and in the volumetric component.

(2) The allocation is performed and substantiated by the TSO based on the method of allocation used by EU companies having similar transmission systems.

(3) The value of the booking component of the total income is 50% allocated by entry points and 50% allocated by exit points.

**Art.14**.

 (1) The transmission tariff for capacity booking is set separately for each entry/exit point.

 (2) The transmission tariff for capacity booking is established per kWh/h.

(3) The transmission tariffs for capacity booking are established for the services under Art. 10, paragraph (3).

**Art.15** The volumetric transmission tariff is the pipeline user tariff and is established per kWh transmitted by the Dn1200 Isaccea III – Negru Vodă II pipeline.

**Art.16** (1) The data necessary for the calculation of the entry/exit tariffs are the following:

a) The total income set according to Art.12;

b) The total income allocated in the capacity booking component and in the volumetric component, and the capacity booking component broken down by each entry/exit point;

c) The capacity estimated to be booked between 1 January and 1 October 2016, for which the transmission tariffs are set, by each entry/exit point;

d) The amount estimated to be transmitted through the Dn1200 Isaccea III – Negru Vodă II pipeline between 1 January and 1 October 2016;

e) The maximum daily flow of each entry/exit point over the last 3 years.

(2) For the primary data estimated, the assumptions considered and the methods used for their determination will be substantiated.

### Art.17

### The transmission tariffs for capacity booking are determined as follows:

The value of the booking component of the total income is calculated according to Art.13 for each entry/exit point;

The transmission tariff for entry/exit capacity booking, for short-term firm services, is calculated as follows:

$TCps=\frac{VRCp}{\sum\_{ts=1}^{n}(CR\_{p\_{ts}}xN\_{ts}xK\_{ts})} x K\_{ts} $ ***[RON/KWh/h]***

where:

TCps – the transmission tariff for short-term firm entry/exit capacity booking ;

VRCp – the value of the booking component of the total income for each entry/exit point;

CRpts– amount estimated to be booked over the short term in the period for which the transmission tariffs are set, by each entry/exit point;

Nts – number of hours related to each type of service;

Kts– the multiplier of the transmission tariff for capacity booking related to the type of firm service over the short term.

**Art.18** (1) The transmission tariff for capacity booking for short-term interruptible transmission services is set at the level of the transmission tariff for capacity booking for the short-term firm transmission services for a point `p`.

(2) In case of an interruption of the gas transmission service, the value of the interruptible transmission service for capacity booking is determined depending on the actually uninterrupted capacity booked.

**Art.19** In all capacity auctions the transmission tariff for firm/interruptible capacity booking set according to this Methodology is used as reserve price for the standard capacity product offered and is the auction minimum acceptable price (T0).

**Art.20** (1) The transmission system operator submits for approval by the president of the National Energy Regulatory Authority (ANRE) the tariff proposal and the multipliers for establishing the short-term capacity booking tariffs.

(2) Following approval, the multipliers will be published on the websites of the transmission system operator and of the ANRE.

**Art.21** (1) The volumetric transmission tariff is calculated by using the following formula:

 CV

TV = --------------

 Qtr

where:

TV – the volumetric transmission tariff calculated for 1 kWh transmitted between 1 January and 1 October 2016;

CV – the value of the volumetric component of the total income between 1 January and 1 October 2016;

Qtr – gas amount estimated by the transmission system operator to be transmitted between 1 January and 1 October 2016, expressed in kWh.

(2) The volumetric tariff is applied to the gas quantities transmitted through the exit point, including the quantities allocated under the interruptible transmission services.

(3) Until the conclusion of the agreements with the neighbouring TSOs, the quantities of gas taken over/delivered in the Isaccea III and Negru Vodă II interconnection points in which capacity was booked are allocated for each network user separately, based on the `pro-rata` principle with the nomination/renomination approved.

**Art.22** - Annexes 1 to 4 are part of the Methodology.

Annex 1

of the Methodology

**The technical parameters and the available capacity for the Isaccea III and Negru Vodă II interconnection points**

| **Parameters** | **UM** | **Isaccea III** | **Negru Vodă II** |
| --- | --- | --- | --- |
| Minimum pressure  | [bar] | …. | … |
| Annual average GCV 2015-2016  | [kWh/m3] (0°C/25°C) | …. | …. |
| ***Direction*** |  | ***Entry*** | ***Exit*** |
| Firm unbundled capacity available  | [m3/day](20°C) | …. | …. |
| [m3/day](0°C) | …. | …. |
| [kWh/day](0°C/25°C) | …. | …. |
| ***Direction*** |  | ***Exit*** | ***Entry*** |
| Interruptible unbundled capacity available  | [kWh/day](0°C/25°C) | …. | …. |

Annex 2

of the Methodology

**Network user notice of**

**yearly auction for quarterly capacity**

**as of ………**

Interconnection point: Negru Vodă II

Direction:

🞎 Exit – firm, or

🞎 Entry – interruptible

|  |  |  |
| --- | --- | --- |
| No. | Quarter | Capacity offered [kWh/day] |
| 1 | Quarter II (January - March) |  |
| 2 | Quarter III (April - June) |  |
| 3 | Quarter IV (July - September) |  |

Annex 3

of the Methodology

**Network user notice of**

**rolling auction for monthly capacity**

**as of ………**

Interconnection point: Negru Vodă II

Direction:

🞎 Exit – firm, or

🞎 Entry – interruptible

|  |  |  |
| --- | --- | --- |
| No. | Month | Capacity offered[kWh/day] |
| 1 | ………..  |  |

Annex 4

of the Methodology

**ISACCEA III – NEGRU VODĂ II GAS PIPELINE TRANSMISSION CONTRACT**

**no. of year month day ………**

S.N.T.G.N. TRANSGAZ **S.A.**, having the registered office in ……………………,….………………Street, …………County/District, Postal Code………….., phone …………….., fax.. …………., Sole Registration Code………… , VAT Number ……………………., registered with the Trade Registry Office under no.……………………………………, account no ……………………………………, opened with .........................................., dully represented by ………………………….. , as the provider of the transmission services, hereinafter referred to as the `Transmission System Operator` or `TSO`, on one hand,

and

......................................... (to be filled-in with the identification data of the network user), as the user of the Isaccea III – Negru Vodă II gas transmission pipeline, hereinafter referred to as the `pipeline`,and the `beneficiary of the transmission services`, hereinafter referred to as the **`**Network User` or `NU`, on the other hand,

have agreed to sign this transmission contract, hereinafter referred to as the **`**Contract`.

**I. Terminology and applicable law**

**Art. 1.**

1. The terms used in this Contract are defined by Regulation (EC) No. 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No. 1775/2005, by Regulation (EU) No. 984/2013 of the Commission of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation (EC) No. 715/2009 of the European Parliament and of the Council, Regulation (EU) 703/2015 of the Commission of 30 April 2015 establishing a Network Code on interoperability and data exchange rules, Regulation (EU) No. 312/2014 of the Commission of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks, Energy and Gas Law No. 123/2012, as further amended and supplemented, and the agreements concluded between S.N.T.G.N. Transgaz S.A. and Bulgartransgaz, and between S.N.T.G.N. Transgaz S.A. and Ukrtransgaz, hereinafter referred to as the ` agreements concluded with the neighbouring TSOs`.
2. The `agreements concluded with the neighbouring transmission system operators` shall mean any document agreed between S.N.T.G.N. Transgaz S.A. and Bulgartransgaz, Ukrtransgaz respectively, the scope of which being, without limitation, the technical conditions of the Isaccea III and Negru Vodă II gas metering stations, the minimum operating conditions for the Isaccea III and Negru Vodă II interconnection points, and the minimum specifications for the quality of the gas transmitted through the Isaccea III – Negru Vodă II pipeline.
3. The provisions of the Contract are governed by the EU laws in the domain, the Romanian laws in force and the provisions of the agreements concluded with the neighbouring TSOs.
4. The provisions of the agreements concluded with the neighbouring TSOs shall be applicable to the cases not mentioned explicitly in this Contract.

**II.** **Scope**

**Art. 2.**

1. The scope hereof is the provision of transmission services ([[1]](#footnote-1)\*)

□ firm

□ interruptible;

referring to the set of activities and operations performed by the TSO for or in relation to transmission capacity booking in the pipeline entry/exit points and to transmission through the pipeline of the determined gas quantities expressed in energy units, according to the agreements.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\*) To be filled in based on the type of capacity products requested by the NU and allocated by the TSO according to the Methodology for the Isaccea III – Negru Vodă II gas transmission pipeline capacity allocation and tariff setting

1. The capacity booked in the pipeline entry/exit points is established in Annex 1 to this

Contract and is expressed inkWh/day.

**III. Duration**

**Art. 3.**

1. This Contract is concluded for ([[2]](#footnote-2)\*)

 □ quarter II, between...........(day/month/year) –...........(day/month/year);

 □ quarter III, between...........(day/month/year) –...........(day/month/year);

 □ quarter IV, between...........(day/month/year) –...........(day/month/year);

 □ one month, between...........(day/month/year) –...........(day/month/year).

1. This Agreement shall enter into force upon signature by the Parties (hereof). If the

Parties sign on different dates, the Contract shall enter into force on the date the TSO is communicated the original Contract, signed by the NU, by registered letter with acknowledgment of receipt.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\*) To be filled in based on the capacity products requested by the NU and allocated by the TSO according to the Methodology for the Isaccea III – Negru Voda II gas transmission pipeline capacity allocation and tariff setting

**IV. Conditions for limitation/interruption of interruptible transmission capacities**

**Art. 4.**

1. The interruptible capacity shall be interrupted as established in the agreements concluded with the neighbouring TSOs.
2. The NU shall unconditionally accept the limitation/interruption of the interruptible capacity according to paragraph (1).

NOTE:

The provisions of Article 4 shall be included only in the contracts to be concluded between the TSO and NU having interruptible transmission capacity booked.

**V. Gas metering at the pipeline entry/exit points**

**Art. 5.** The gas quantities shall be metered and the pipeline intakes/overtakes shall be determined according to the provisions of the agreements concluded with the neighbouring TSOs.

**VI. Invoicing and payment**

**Art. 6.**

(1) The NU shall pay to the TSO the value of the transmission services provided, calculated based on the capacity allocation auction clearing price and on the volumetric transmission tariff approved by the order of the ANRE President.

(2) The capacity allocation auction clearing price and the volumetric transmission tariff are presented in Annex 2 of the Contract.

1. The value of provided firm gas transmission services shall be monthly invoiced based on the pipeline entry/exit booked capacity, on the number of hours of each month when the transmission services were not limited/interrupted, and on the quantities of gas taken over/delivered, based on the monthly allocations, according to the provisions of the agreements concluded with the neighbouring TSOs, and, as appropriate, based on the other obligations generated by the execution of this Contract.
2. The value of provided interruptible gas transmission services shall be monthly invoiced based on the pipeline entry/exit booked capacity, on the number of hours of each month when the transmission services were not limited/interrupted and on the gas quantities delivered/taken over by the TSO, based on the monthly allocations, according to the provisions of the agreements concluded with the neighbouring TSOs, and, as appropriate, of the other payment obligations generated by the execution of this Contract.
3. The method of payment and the banks for the conducting of the banking transactions shall be mutually agreed.
4. The invoices issued for the transmission service shall be paid within 15 calendar days from the invoice date. If the due date is on a non-working day, this deadline shall be deemed as achieved on the next working day.
5. The invoices issued for the other obligations related to the execution of the contract shall be paid within 15 calendar days from the invoice date. If the due date is on a non-working day, this deadline shall be deemed as achieved on the next working day
6. The advance payment of the invoices issued for the transmission service shall be made by the transmission service start date, based on the advance payment invoice issued to this effect.
7. The payment obligation shall be deemed as fulfilled on the date when the relevant total amounts are credited to TSO bank account.
8. The transmission services shall be invoiced as follows:
9. For quarterly/monthly contracts the TSO shall issue and send to the NU, until day 15 of the month following the month for which it provided the transmission service, an invoice for the transmission services provided for the previous month, based on the monthly allocations;
10. For quarterly/monthly contracts, if the NU chooses to pay in advance, the TSO

 shall issue and send to the NU:

a) at least 5 calendar days prior to the date of beginning of each service provision month, an invoice for payment in advance, the amount of which equals the value of the booked capacity, calculated for the period of the service provision month, to which it is added the value of the volumetric component calculated at the contractual level of the capacity for the same period;
b) within 15 working days from the end of the service provision month a payment settlement invoice, based on the monthly allocation.

**VII. TSO`s rights and obligations**

**Art. 7.** The TSO shall be entitled to:

1. receive from the NU the value of the services provided and of the delay penalties;
2. limit/interrupt the transmission services, with a prior notice of 3 calendar days, if

the payment obligations are not fulfilled according to the terms and conditions

of the Contract;

1. limit/interrupt the transmission services, with a prior notice of 3 calendar days, if

 the NU does not comply with any other provisions of the Contract;

1. refuse to take over in the pipeline the gas non-compliant with the minimum

 quality specifications established under the agreements concluded with the neighbouring TSOs;

1. limit/interrupt the transmission services for the execution of maintenance works

 and scheduled repairs, with the prior notice of the NU;

1. limit/interrupt the transmission services in order to remedy any pipeline

 damages, notifying the NU within maximum 6 hours with regard to such

 limitation/interruption;

1. interrupt the interruptible capacity transmission services as set by the

 agreements concluded with the neighbouring TSOs;

1. initiate the amending or supplementing of the Contract in case of modification

of the circumstances which are at the basis of its signature.

**Art. 8.** TheTSO shall:

1. notify the NU with regard to possible limitations/interruptions of the transmission

 services in case of the NU’s payment default;

1. resume the transmission services within 24 hours from the date of meeting

 payment obligations;

1. take over from the NU at the entry point, transmit and deliver the energy quantities to the NU at the exit point according to the approved nominations/renominations;
2. deliver at the exit the quantity taken over for transmission from the NU at the entry point, without being held liable for any possible differences between the quantities nominated and the quantities actually taken over at the entry point;
3. deliver gas in the Negru Voda II interconnection point, complying with the gas quality specifications under the agreements;
4. send to the NU a monthly report for the allocation of energy at the pipeline exit point;
5. enable NU`s access to the data/documents substantiating an invoice when the NU is disputing such invoice;
6. answer and settle the NU`s complaints regarding the transmission services, according to the applicable laws;
7. make available for the NU the relevant information contained in the agreements concluded with the neighbouring TSOs;
8. amend and/or supplement the Contract in case of modification of the circumstances which are at the basis of its signature.

**VIII. NU`s rights and obligations**

**Art. 9.** NU shall be entitled to:

1. dispute the invoices issued by the TSO and to request to the TSO access to

 data/documents substantiating such invoices;

1. refuse to take over in the Negru Voda II interconnection point the gas

non-compliant with the quality specifications established under the agreements concluded with the neighbouring TSOs, provided the provisions of Art. 10, letter b) are complied with;

1. ask the TSO to amend and/or supplement the Contract if deemed appropriate.

**Art. 10.** TheNU shall:

1. pay fully and by the due date the invoices issued by the TSO for the value of the

transmission services provided and, as applicable, the other payment obligations resulted from the execution of this Contract;

b) pay the exceeding capacity at the level of the highest clearing price of the auction

 for quarterly and monthly products related to the period 01.01.2016-30.09.2016,

 price which cannot be lower than the price for the monthly product, in the

 situation in which the gas quantities allocated to the NU exceed the level of the

 capacity booked;

 c) deliver the gas in the Isaccea III interconnection point, compliant with the

gas specifications under the agreements concluded with the neighbouring TSOs. If during the delivery month the NU does not assure the gas quality specifications in the Isaccea III point, at least at the level established in the agreements concluded with the neighbouring TSOs, the TSO shall deliver in the Negru Voda II point gas of a similar quality, the NU being held liable for all of the consequences resulting from the failure to meet such obligation;

 d) accept the provisional reduction of capacity and approved

 nomination/renomination in the Isaccea III point, in case of non-compliance

 with the gas quality specifications;

 e) notify the TSO through the nomination/renomination with regard to its

 counterparties and to the energy quantities of such counterparties, according to

 the agreements concluded with the neighbouring TSOs;

 f) submit nominations in energy unit for each gas day, at quantitative levels

 identical with those submitted to the neighbouring transmission system

 operators and accepted by such TSOs. The gas quantity energy units – volume

 units conversion rules shall be published on the website of the TSO;

 g) accept the quantities of gas allocated by pipeline entry/exit points, according to

the agreements concluded with the neighbouring TSOs;

 h) accept the limitation/interruption of the transmission services in the situations

 specified at Art. 7, letter e) and f);

1. accept unconditionally the limitation/interruption of the transmission service

 regarding the interruptible transmission capacity, according to Art. 4 of the

 Contract;

1. comply with the principle of equality between the daily nominations submitted

 to the TSO for the Isaccea III and Negru Vodă II interconnection points.

**IX. Guarantees**

**Art. 11.**

For the provision of the transmission services the NU shall present to the TSO the letter of good standing to confirm its financial ability to meet its obligations under the Contract.

**Art. 12.**

1. The NU shall present to the TSO the performance bond according to Art. 13 and in the amount established at Art. 14, within minimum 5 working days prior to the provision of the transmission service.
2. The NU may be exempted from the obligation to establish the performance bond under Art. 13 in favour of the TSO if:
3. it makes the prove of a credit rating issued by a rating agency agreed by the TSO, at least at the same level as that of the TSO, valid over the Contract duration;
4. it pays in advance the value of the transmission services according to Art. 6 of the Contract.
5. If, during the execution of the Contract the NU`s rating or the issuing rating agency mentioned at Art. 12, paragraph (2), letter a) changes, the NU shall prove that it complies with the provisions of Art. 12, paragraphs (1) and (2), within no more than 30 consecutive days from the occurrence of the modification.

**Art. 13.**

(1) The NU shall submit the performance bond in the form of:

* a letter of bank guarantee for the amount of RON … or the EUR equivalent at the ECB rate of exchange of the bond issuance day, and/or
* a guaranteed account (collateral deposit) for the amount of RON … or the EUR equivalent at the ECB rate of exchange of the bond issuance day, and/or
* an escrow account for the amount of RON …. or the EUR equivalent at the ECB rate of exchange of the bond issuance day.

(2) The TSO shall accept the letter of bank guarantee issued by a bank having a rating granted by one of the following rating agencies: Standard & Poor`s, Moody’s, Fitch, at least at the investment grade level .

**Art. 14.**

(1) The level of the guarantee established by the NU according to Art. 13 shall be equal to:

* twice the average value of the monthly invoices estimated for the transmission services of the following period of use, for the quarterly contracts;
* the value of the monthly invoice estimated for the transmission services of the following period of use, for the monthly contract.

(2)If the level of the guarantee:

* is under the level stipulated at paragraph (1), the NU shall supplement the level of the financial guarantee accordingly;
* is over the level stipulated at paragraph (1), the TSO shall return to the NU the unused portion of the guarantee value.

(3) The guarantee level shall be adjusted within no more than 5 working days from the date of the occurrence of the diminishing/increase compared to the level established, according to paragraph (1).

1. The guarantee established according to paragraph (1) shall be valid starting with the bank day previous to the transmission service start date and shall expire in the 60th calendar day from Contract expiration.

**Art. 15.**

(1) If the NU provides the letter of good standing in accordance with Art. 12, paragraph(2), letter a), the TSO may request, in certain justified cases, the establishment of a performance bond according to Art. 13or the advance payment of the payment obligations resulting from the commercial relationship with the NU. The request of the guarantee or advance payment shall be provided and explained to the NU in writing.

(2) For the transmission services a justified case is considered the situation in which a NU is in delay for an amount representing at least 10% of the value of the last invoice or of the value of the partial payment obligations, after the receipt of a notice from the TSO to that effect.

**Art. 16.**

(1) The TSO shall be entitled to execute the guarantee under this section unless the NU fulfills its contract obligations completely or partly or if it delays fulfilling such obligations.

(2) Prior to executing such guarantee, the TSO shall notify the NU on the non-fulfilled obligations.

1. The TSO shall send the guarantee execution notification by fax within 24 hours from

the expiration of the due date established at Art. 6, paragraph (6).

1. If the guarantee is executed partly or completely, the NU shall re-establish the guarantee according to Art. 14 paragraphs (2) and (3).

**Art. 17.** Advance payment for the transmission service:

1. The Network User may choose not to establish a guarantee for the provision of the transmission service by making advance payments. In such case the Network User shall state its advance payment option instead of establishing a guarantee, to the Transmission System Operator, in writing, within minimum 7 working days prior to the transmission service start date.
2. The amount of the advance payment shall be equal to the monthly invoice estimated for the transmission services for the following period of use, according to Art. 6 of the Contract.
3. The advance payment/advance payment invoice is offset against the settlement invoice of the month for which the payment was made.
4. If such advance payment does not cover the amount of the settlement invoice for the relevant month, the difference shall be paid by the Network User on the invoice due date.
5. The Network User may request a cancellation of the advance payment option, provided the establishment of a guarantee according to Art. 12, paragraph(2), letter a) or to Art. 13.

**X. Confidentiality**

**Art. 18.**

(1) The parties shall keep confidential all data, documents and information obtained during the execution of the Contract.

(2) Notwithstanding the provisions of paragraph (1), confidential data, documents and information shall not include any data, documents and information:

a) known to a contracting Party prior to the date of disclosure by the other contracting Party, or

b) disclosed following receipt of the written consent of the other contracting Party for such disclosure, or;

c) which must be produced as a legal duty on disclosure.(3) The provisions of this article shall be effective for a period of five years from the expiration of the Contract.

**Art. 19.** Non-compliance to the provisions of Art. 18 on the confidentiality of the Contract shall attract the liability of the Party in default, according to the provisions of the law.

**XI. Liability**

**Art. 20.**

(1) Failure to meet the invoice payment obligation by the due date established at Art. 6, paragraph (6) shall incur:

a) delay penalties, calculated for the outstanding amount, equal to the default interest due for the non-payment of the budgetary obligations by the due date, for each day of delay day, starting with the 16th calendar day from the invoice issuing date and until its full payment, the payment date included;

b) the limitation/interruption the gas transmission service, with a prior notice of 3 calendar days, starting from the next day following the period of 15 calendar days specified at letter a), in case of complete or partial failure to meet the payment obligation.

(2) If the due date is a non-working day, the deadlines established at paragraph (1) shall be shifted accordingly.

(3) NU shall be held directly liable for any penalties incurred by the TSO from reason of such NU`s failure to sign the documents at the basis of the invoice within the established period.

**Art. 21.** The full or partial culpable breach of the contract obligations by the NU, other than the payment obligations, shall entitle the TSO to claim damages, proportionally with the prejudice, according to the applicable law.

**Art. 22.** The full or partial culpable breach of the contract obligations by the TSO shall entitle the NU to claim damages, proportionally with the prejudice, according to the applicable law.

**XII. Force majeure**

**Art. 23.**

(1)Force majeure is an event that is external, unforeseeable, absolutely invincible and unavoidable, which exonerates the Parties from liability, according to the provisions of the Civil Code.

(2)In a Force Majeure event, the affected Party shall notify the other Party, within no more than 48 hours of the occurrence of such event, and subsequently submit the document certifying the Force Majeure issued by the competent state authorities, within maximum 20 days from the same date.

(3)The Contract Parties shall exercise the due diligence to reduce the effects generated by the occurrence of the Force Majeure.

(4) If the Force Majeure does not cease within 30 calendar days, the Parties shall have the right to request the termination of the Contract, without any of the Parties being entitled to claim damages.

**Art. 24**

1. The act of God is an event that is unforeseeable and unavoidable by the party that

would have been responsible if the event had not occurred.

1. The provisions of Art. 23, paragraphs (2) to (4) shall be applied accordingly.

**Art. 25**

1. The Parties are exonerated from their liability when the execution of an obligation became impossible due to circumstances beyond the control of the relevant Party.
2. The provisions of Art. 23 paragraphs (2) to (4) shall be applied accordingly.

**XIII. Termination**

**Art. 26.**

(1) The Contract shall be terminated:

1. by the Parties’ agreement;
2. at Contract expiry;
3. by termination as of right and without the intervention of a court in the case of non-observance of any of the requirements regarding access to the pipeline transmission services;
4. by termination as of right and without the intervention of a court in the case of non-observance of the financial requirements under Contract *Section IX – Guarantees*;
5. by unilateral termination, in case of bankruptcy, liquidation or withdrawal of license, as applicable, based on a prior notice;
6. in case of Force Majeure, according to Art. 23.

(2) The termination of the Contract shall bear no effect on the contracting obligations arisen validly during the execution of the Contract, independent of their deadlines.

**XIV.** **Notifications**

**Art. 27.**

(1)During the execution of the Contract the Parties shall notify each other in writing, at the address mentioned in this Contract, with regard to any change in the circumstances considered on its signing date.

(2) The notification period shall be of maximum 5 calendar days from the occurrence of the modification, unless otherwise stated by the Contract.

(3) The notifications between the Parties may also be sent by fax or e-mail, conditional on the written confirmation of the receipt.

(4) Any written document must be registered when sent as well as when received.

**XVI.** **Settlement of litigations**

**Art. 28.** The Parties agree to amicably settle any dispute arising in relation to the validity, interpretation, execution and termination the Contract. If not, the disputes shall be referred to the competent Romanian law courts.

**XVI. Contract Transfer**

**Art. 29.**

(1) Neither Party shall be entitled to transfer the rights and/or obligations established by this Contract, to a third party, totally or partially, except with the written consent of the other Party, which cannot be refused without any justification.

(2) The transfer intention notification shall be sent to the other Party with minim 10 working days prior to the intended transfer date.

(3) The notified Party shall send a reasoned answer within maximum 5 working days from the notification receipt date.

(4) If the Party notified in accordance with paragraph (3) fails to answer or, as applicable, fails to send a reasoned answer, the transfer intention shall be deemed:

a) not accepted, in the case of contract transfer, according to the applicable law;

b) accepted, in the case of debt transfer.

**XVII. Miscellaneous**

**Art. 30.**

1. The Contract can be amended or supplemented with the Parties’ agreement and

according to the applicable law.

1. The Contract is concluded in Romanian. If the Contract is concluded in a bilingual

format, the Romanian version shall prevail.

**Art. 31.** The Contract shall be governed by the Romanian law.

**Art. 32.** Annexes 1 and 2 are part of the Contract:

This Contract was concluded today, ............., in two counterparts having the same legal value, and each party confirms the receipt of one counterpart.

**TSO NU**

Legal representative, Legal representative,

Annex 1

of the Gas Transmission Contract

**BOOKED CAPACITY**

Annex 2

of the Gas Transmission Contract

**TARIFFS**

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)