

The Network Code for the National Gas Transmission System

*Processed version*

**ANNEX 1<sup>2</sup>**

(to the Network Code for the National Gas Transmission System)

**Gas transmission CONTRACT**  
**related to the NTS (National Transport System) exit points**

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

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

and

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

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

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I. Terminology and applicable legislation

ART. 1

- (1) The terms used in the present contract are defined in the Electricity and Gas Law no. 123/2012, as subsequently amended and supplemented, as well as in the Network Code for the National Gas Transmission System, approved by the Order of the President of the Romanian Energy Regulatory Authority (ANRE) no. 16/2013, as subsequently amended and supplemented (the Network Code).
- (2) The provisions of this contract are supplemented by the provisions of Law no. 287/2009 regarding the Civil Code, republished, as subsequently amended (Civil Code), the Electricity and Gas Law no. 123/2012, as subsequently amended and supplemented, and ANRE regulations, including the provisions of the Network Code and the Technical Conditions for the operation of points for metering the gas quantities at the NTS entry/exit points, hereinafter called „Technical Conditions“, as well as any other legal regulations in force. For all situations not explicitly provided for in this contract, the Network Code provisions are applicable.

II. The scope of the contract

ART. 2

- (1) The scope of this contract is the provision of natural gas transmission services, describing the whole range of activities and operations carried out by the TSO for or in connection with the transmission capacity booking at the NTS exit points and the transmission through the National Transmission System (NTS) of the gas quantities, expressed in energy units, to the NST exit points.
- (2) The contract entitles the NU to nominate/re-nominate/off-take from the NTS, at the exit points, quantities of natural gas within the booked capacity.

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(3) By means of this contract the NU has the right to use the booked capacity at the NTS exit points for the takeover of gas from the NTS in order to supply to its final customers, to cover their own consumption, for storage and/or transmission to interconnected transmission systems.

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

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

### III. Contract duration

#### ART. 3

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

### IV. Conditions for ensuring firm capacities at the NTS exit points to the underground storage facilities

#### ART. 4

The TSO, acting correctly and prudently, will ensure the firm transmission capacity at the NTS exit points to the underground storage facilities, booked by the NU throughout the duration of the contract.

### V. Gas metering at the NTS exit points

#### ART. 5

The metering of the gas quantities is made continuously according to the provisions of the specific legislation, the determination of energy quantities supplied from the NTS takes place in accordance with the provisions of the Network Code.

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VI. Applicable tariffs, invoicing and payment modalities and conditions

ART. 6

(1) The NU will pay to the TSO the amount of the booked transmission capacity established on the basis of the capacity booking tariff applicable when the booked capacity can be used and the tariff related to the commodity component applicable during the same period for the transmitted gas quantity, based on the final allocations.

(2) The TSO shall pay to the NU the value of the non provided transmission capacity, determined on the basis of the tariff for not ensuring the capacity, applicable at the time the NU could not use the booked capacity.

(3) The network user shall also pay the transmission system operator, as the case may be, the tariffs provided for in the Network Code.

(4) The tariffs mentioned in para. (1) and (2) are set out in Annex no. 1 to this contract.

(5) The TSO shall send to the NU, by the 15th of the month following that for which the transmission service was provided, separate invoices (hereinafter referred to as "monthly invoices") drawn up on the basis of the final allocations, as the case may be:

a) an invoice related to the transmission services provided for the previous month, is prepared based on the final allocations;

b) an invoice related to the amount of the tariff for exceeding the booked capacity, calculated in accordance with the provisions of art. 99 of the Network Code, and/or the amount of the tariff for non-ensuring the booked capacity, calculated in accordance with the provisions of art. 101 of the Network Code, as applicable;

c) an invoice related to the amount of the additional capacity, calculated in accordance with the provisions of art. 51 of the Network Code resulting from the nomination by the NU of a quantity of natural gas exceeding the capacity booked by the NU at an NTS exit point.

(6) If the NU opts for the advance payment, the TSO issues and submits to the NU:

(i) with a minimum of 5 calendar days prior to the start date of each month of services provision, a prepayment

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invoice equal to the amount of the booked capacity calculated for the month of services provision plus the value of the commodity component, calculated at the contractual level of capacity for the same period;

(ii) within 15 working days after the end of the month of services provision, a payment settlement invoice drawn up based on the final allocation.

**ART. 7**

(1) The payment of the invoices provided for in art. 6 para. (5) and para. (6) point (ii) shall be made within 15 calendar days from the date of issue of the invoices. If the due date is a non-working day, the deadline is deemed to be reached on the next business day.

(2) Payment of the invoices provided for in art. 6 para. (6) point (i) shall be made up to the date of commencement of the provision of the transmission service on the basis of the advance payment invoice issued for that purpose.

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

**ART. 8**

(1) Prior to the commencement of the provision of transmission services, the TSO issues:

a) an invoice representing an advance payment issued for the amount of the booked capacity for which natural gas transmission services are provided plus the amount of the commodity component calculated at the level of the capacity for the same period;

b) within 15 working days from the end of the month of the services provision, a payment settlement invoice drawn up on the basis of the final allocation.

(2) The payment of the invoice amount issued in accordance with paragraph (1) letter a) is effected before the commencement of the transmission services.

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ART. 9

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

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

VIII. Rights and obligations of the TSO

ART. 10

The TSO has the following rights:

- a) to collect from the NU the value of the services rendered and the late payments;
- b) to draw on the financial guarantee provided by the NU in the event of non-payment at maturity of the invoices issued;
- c) to limit/interrupt the provision of transmission services, with prior notice, in the event of non-fulfilment of the payment obligations within the deadline and under the terms and conditions stipulated in the present contract;
- d) to interrupt the provision of transmission services, if the NU does not comply with the provisions of the Network Code;
- e) to invoice the NU the value of the transmission services provided, observing the tariffs stipulated in the present contract, and, as the case may be, the late payment penalties;
- f) to limit or interrupt the provision of transmission services in order to remedy the damage occurring in the NTS, notifying the NU within maximum 6 hours from the moment the TSO became aware of it;
- g) to limit the provision of transmission services to the approved nomination level if the daily total energy offtake is higher than this nomination;
- h) to limit or interrupt the provision of firm transmission services, if the NU does not comply with the provisions

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of Chapter X "Guarantees";

- i) all the other rights as set out in the Network Code.

**ART. 11**

The TSO has the following obligations:

- a) to notify the NU about the possible limitations/interruptions in the provision of transmission services in case of non-fulfilment of the payment obligations;
- b) to resume the provision of the transmission services within 24 hours from the date of fulfilment of the payment obligations;
- c) to deliver the natural gas at the exit from the NTS under the conditions stipulated in the bilateral conventions concluded according to art. 46 para. (6) of the Network Code and in accordance with approved nominations/re-nominations;
- d) to allow the NU access to the data/documents that underlie the issuing of the invoice in case the NU contests the issued invoice;
- e) to make available to the NU the capacity booked at the NTS exit points according to the contracted levels;
- f) to pay to the NU the tariff for non-ensuring the booked capacity;
- g) to answer and resolve the notifications of the NU concerning the provision of transmission services under the conditions provided for by the legislation in force;
- h) all the other obligations as set out in the Network Code.

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

**ART. 12**

The NU has the following rights:

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- a) to use the capacity booked at the NTS exit points for taking over the gas from the VTP and the transport to the NTS exit points;
- b) to return voluntarily or to transfer the approved capacity in accordance with the provisions of the Network Code;
- c) to transfer gas quantities in accordance with the provisions of the Network Code;
- d) to request and receive from the TSO the related amounts for non-ensuring the booked capacity in accordance with the provisions of the Network Code;
- e) to challenge the invoices issued by the TSO and to request the access to the data/documents underlying the issue of the invoice;
- f) to refuse to take over at the exit points from the NTS the natural gas which does not comply with the quality conditions stipulated in the Technical Conditions;
- g) all the other rights as set out in the Network Code.

**ART. 13**

The NU has the following obligations:

- a) to pay in full and on time the invoices issued by the TSO, in accordance with the provisions of this contract, and, where appropriate, the related late payments;
- b) to accept the limitation/interruption of the transmission service under the conditions stipulated in the present contract;
- c) to establish accurately the guarantees provided for in this contract;
- d) to notify the TSO, by nomination/re-nomination, of the designated partner and of the related energy quantities respectively;
- e) to take all the necessary measures, through suppliers and system operators, for the supply of energy to its



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customers, including to the interruptible customers, in compliance with the legislation in force;

f) all the other obligations as set out in the Network Code.

## X. Guarantees

### A. General provisions

#### ART. 14

(1) For the fulfilment of the contractual obligations, each party will establish in favour of the other party a guarantee in accordance with the provisions of the Network Code.

(2) For the purpose of fulfilling the obligation stipulated in para. (1) of this article, the TSO shall provide the proof of its credit rating.

(3) The NU is exempted from the obligation to establish the financial payment guarantee to the TSO if:

a) it produces evidence of a credit rating issued by one of the rating agencies approved by the TSO or at least at the same level as the one granted to the TSO valid for the duration of this contract;

b) it pays in advance the countervalue of the transmission services.

(4) If, throughout the duration of this contract, either the NU's rating or the agency agreed upon by the TSO changes, the NU shall notify the TSO within 3 working days from the performance of the change and to prove the fulfilment of its warranty obligations comprised in this chapter within no more than 5 working days from the date of the change.

#### ART. 15

(1) The financial payment guarantee is presented by the NU in the form of:

a) a letter of bank guarantee in lei or Euro equivalent at the exchange rate of the European Central Bank on the

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day of issue of the guarantee (according to the template in Annex 4); and/or

b) a guaranteed account (collateral deposit) in lei or Euro equivalent at the exchange rate of the European Central Bank on the day of issue of the guarantee; and/or

c) an escrow account in lei or the Euro equivalent at the exchange rate of the European Central Bank on the day of the issue of the guarantee.

(2) The TSO accepts a letter of bank guarantee issued by a bank rated by one of the rating agencies: Standard & Poor's, Moody's or Fitch, at least at the "investment grade" level. The equivalence between the rating levels awarded by the three agencies is published on the TSO's website.

**ART. 16**

(1) In case the NU proves the creditworthiness according to art. 14 para. (3) letter a), the TSO may in certain justified cases require the provision of a financial payment guarantee in accordance with the provisions of art. 15 or the advance payment of the payment obligations arising from the commercial relationship with the NU. The requirements for a guarantee or an advance payment will be provided for and explained in written form.

(2) In the case of transmission services, it is considered to be a justified case that the NU is in default for the payment of an amount at least equal to 10% of the value of the last invoice or of the amount of the partial payment obligations, after a notification has been received from the TSO in this respect.

**B. Annual and quarterly product**

**ART. 17**

(1) The NU has the obligation to submit to the TSO the financial payment guarantee in the amount provided for

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in para. (2) at least 5 working days before the start of the transmission service period.

(2) The level of the financial payment guarantee established by the NU shall be equal to the average amount of the estimated monthly invoices for the transmission services for the following period of use.

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

(4) The NU may waive the option of establishing a guarantee for the provision of the transmission service by making advance payments. To this end, the NU shall notify the TSO in writing, within a maximum of 7 working days after the end of the capacity booking period, of the prepayment option.

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

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

(7) If such advance payment does not cover the amount of the settlement invoice for that month, the difference shall be paid by the NU at the due date of the invoice.

(8) The NU may waive the option of advance payment, subject to the establishment of a financial payment guarantee under the conditions of art. 14 para. (3) or art. 15.

**C. Monthly product**

**ART. 18**

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

(2) The level of the financial guarantee provided by the NU shall be equal to the estimated monthly invoice for

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the transmission services for the following period of use.

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

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

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

(6) The advance payment/Advance payment invoice is compensated by the settlement invoice for the month for which the payment was made.

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

**D. Daily product**

**ART. 19**

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

**ART. 20**

(1) The payment guarantee issued under art. 17 para. (1) shall be valid from the banking day preceding the

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date of commencement of the provision of the transmission service and shall cease to be valid on the 60<sup>th</sup> calendar day following the termination of the contract by its due date.

2. Where the level of the financial payment guarantee:

a) decreases by more than 5% below the level specified in art. 17 para. (2), the NU is required to supplement the level of the financial guarantee accordingly;

b) increases more than 5% above the level specified in art. 17 para. (2), the TSO is obliged to return to the NU the difference between the effective level of the guarantee and the one specified in art. 17 para. (2).

(3) The adjustment of the level of the payment guarantee shall be made no later than 5 working days after the decrease/increase from the level established according to art. 17 para. (2).

(4) The TSO shall have the right to claim the guarantee provided for in this Article within the limit of the damage caused if the NU does not fulfil all or part of its contractual obligations or performs them later.

(5) Prior to the issue of a guarantee claim, the TSO has the obligation to notify the NU, stating the obligations that have not been complied with.

(6) The notification regarding the establishment of the guarantee shall be sent by fax to the TSO, within 24 hours of the expiry of the period stipulated in art. 23 para. (1) letter a).

(7) In case of execution of the partial or total guarantee, the NU has the obligation to re-establish the guarantee within 5 days from the drawing on.

## XI. Transmission programme

### ART. 21

(1) The transmission programme will be sent directly to the informational platform in accordance with the

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provisions of art. 27 letter B of the Network Code and will be set out in Annex no. 3 to this Contract.

(2) The transmission programme may be modified in accordance with the procedure laid down in the Network Code.

(3) The Parties shall comply with the minimum/maximum pressure at the NTS exit points as provided for in the bilateral Conventions concluded in accordance with the provisions of the Network Code.

## XII. Confidentiality Clause

### ART. 22

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

(2) The following data, documents and items of information are exempted from the provisions of para. (1):

- those that may be disclosed in accordance with the Network Code;
- those for which the written agreement of the other Contracting Party has been obtained for them to be disclosed;
- those required by the competent state bodies, based on a legal obligation of information.

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

## XIII. Contractual liability

### ART. 23

(1) The non-fulfilment of the invoice payment obligation within the deadline provided for in art.7 para.(1) triggers

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the following effects:

a) the charging of a late payment rate, calculated on the outstanding amount, equal to the default interest due for non-payment of the budget obligations for each day of delay starting from the 16<sup>th</sup> calendar day from the date of issue of the invoice to the payment date including the day of payment, or until the guarantee provided in the contract is executed in the event of default, within 15 calendar days of the due date;

b) the limitation/interruption of the gas transmission service, with 3 calendar days notice, starting on the day immediately following the expiration of the 15 calendar day period stipulated in letter a) in the case of non-fulfilment of the payment obligation;

c) the limitation / interruption of the natural gas transmission service, with 3 calendar days notice, starting from the day immediately following the day when the amount of the NU imbalances exceeds the value of the balancing guarantees.

(2) If the due date or the day immediately following the expiration of the grace period is a non-working day, the deadlines provided for in paragraph (1) are extended accordingly.

**ART. 24**

If the NU, at the TSO's request, does not voluntarily surrender /does not use the transferred and unused capacity transfer facility, by making the required capacity transfer, the NU is required to pay 5% of the transferred capacity, for the period between the date of the mandatory capacity transfer and that of the cease and termination of the contract.

**ART. 25**

(1) The NU is entitled to request and receive an amount set based on the tariff for non-ensuring the booked capacity, in accordance with the provisions of the Network Code, if the TSO does not keep all the capacity

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booked by the NU available to the NU.

(2) If the amount stipulated in para. (1) does not fully cover the damage suffered, the NU has the right to claim and receive additional compensatory damages, up to the full coverage of the damage caused, in case the TSO does not fulfil its obligation to provide the gas transmission services, as well as any other obligations set forth in this contract.

**XIV. Force majeure/ Unforeseeable circumstances**

**ART. 26**

(1) Force majeure is that external, unpredictable, absolutely invincible and inevitable event that exonerates the parties of liability, under the conditions of art. 1.351 of the Civil Code.

(2) If the force majeure event does not cease within 30 calendar days, the parties have the right to request the termination of the contract, without any of them having the right to claim compensatory damages.

(3) The party invoking force majeure has the obligation to notify the other party, in writing, by notice within maximum 5 days from its occurrence, and the proof of force majeure shall be communicated within 30 days of its occurrence.

**ART. 27**

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

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



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## XV. Cancellation and termination of the contract

### ART. 28

(1) The present contract is ceased and terminated:

a) by the execution of the contractual obligations;

b) at the expiration of the contract period;

c) in case of non-fulfilment of one of the requirements regarding the access to the transmission services through the NTS, provided for in the Network Code, including in case of termination of the balancing and VTP access contract concluded between the TSO and the NU;

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

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

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

g) for force majeure, according to the contract.

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

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

## XVI. Notifications

### ART. 29

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

## XVII. Applicable laws and dispute settlement

### ART. 30

- (1) The provisions of this contract are subject to and interpreted in accordance with the Romanian laws in force.
- (2) The parties agree that all misunderstandings regarding the validity, interpretation, execution and termination of the contract shall be settled amicably. If the disputes are not settled amicably, they will be settled by the competent courts of law.

## XVIII. Contract assignment

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**ART. 31**

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

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

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

**XIX. Other clauses**

**ART. 32**

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

(2) By way of exception to the provisions of para. (1), this contract shall be automatically amended or supplemented with any modification or addition applicable to the gas transmission contract or to the contractual relation between the TSO and NU, provided by a national or European regulatory act, each party having the obligation to assume the respective modifications/supplements.

**ART. 33**

The following annexes are inherent parts of this contract:

- Annex no. 1 – Tariffs for providing the transmission services;
- Annex no. 2 – Capacity booking at the NTS exit points;

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- Annex no. 3 – Transmission programme;
- Annex no. 4 – Letter of bank guarantee template.

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

Transmission System Operator

Network User

SNTGN TRANSGAZ S.A.