

BALANCING AND VTP ACCES CONTRACT

no. ... of, month day

The National Gas Transmission Company TRANSGAZ S.A. Mediaș, headquartered in Mediaș, no. 1, Constantin I. Motaș Square, Sibiu county, postal code 551130, phone 0269/803333, fax 0269/839029, fiscal registration code RO13068733, registerea with the Trade Register under no J32/301/2000, holder of the **account no. RO42 RZBR 0000 0600 0265 2684**, opened with Raiffeisen Bank SA and **account no. RO89 RNCB 0231 0195 2531 1859** opened with the Romanian Commercial Bank (B.C.R.) – Mediaș Branch – **related to the commercial balancing activity**, legally represented by the Director General, as transmission system operator, hereinafter referred to as "the transmission system operator" or "TSO", on one hand,

and

....., headquartered in, no.st....., no....., county....., postal code, phone.....fax....., fiscal registration codeno. of the registration with the trade register, account no....., opened with....., legally represented by Director General / administrator (as appropriate), as client of the TSO and beneficiary of the transfer of the ownership right services, hereinafter referred to as „**network user**” or „**NU**”, on the other hand,

Hereinafter collectively referred to as the "Parties" and each individually the "Party", agreed to conclude this balancing and VTP access contract, hereinafter referred as the "contract".

I. Terminology and applicable legislation

Art. 1

(1) The terms used in this contract are defined in (EU) Regulation no 312/2014 of the Commission dated 26 March 2014 for setting a network code on balancing gas transmission networks, in Power and Gas Law no. 123/2012, as amended, 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 amended (*the Network Code*).

(2) The provisions of this contract are amended by the provisions of Law no. 287/2009 regarding the Civil Code, republished, as amended (*the Civil Code*), Power and Gas Law no. 123/2012, as amended and ANRE regulations, including the provisions of the Network Code as well as any other applicable legal regulations. For all cases not expressly provided for herein, the provisions of the Network Code shall apply.

II. Scope of the contract

Art. 2

The scope of the contract is to establish the parties' rights and obligations arising from the balancing of the differences between the NTS natural gas inputs and outputs, as well as the ones related to the access to the VTP and the ownership right transfer services.

III. Duration of the contract

Art. 3

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

IV. Rights and obligations of the parties

Rights and obligations of the Network User (NU)

Art. 4

- (1) NU is entitled to the ownership right transfer services for the purpose of registering transactions dealing with quantities of natural gas from the NTS.
- (2) NU has the right of access to the informational platform serving the VTP operation under the conditions provided for in the Procedure for access to the information platform serving the VTP. The procedure for access to the information platform is developed by the TSO and is displayed on its own website.
- (3) NU has the right to fully and duly collect the value of the „Surplus“ type imbalances recorded by the NU, including possible late payment penalties.
- (4) NU has the right to receive information on the daily imbalance, according to the procedures provided for in the applicable regulations.
- (5) NU has the right, during the term of the contract, to empower, according to the law, a representative to submit commercial notifications to the TSO on behalf of the NU. The NU will notify the TSO of its decision to empower a representative.
- (6) NU has the obligation to perform the daily balancing of its own portfolios so that at the end of each gas day the recorded imbalance is 0.
- (7) NU shall submit the financial guarantee for payment under the terms and conditions provided for herein.
- (8) NU shall invoice the amount of the „Surplus“ type imbalances and fully and duly pay the invoices issued by the TSO, representing the value of the „Deficit“ type imbalances recorded by the NU.
- (9) NU shall pay to the TSO the invoice issued in accordance with the provisions of the Methodology for calculating the balancing neutrality charges, including their distribution to the users of the natural gas transmission network approved by the order of the ANRE President, if the outcome of the balancing activity is negative.
- (10) NU shall comply with the provisions of the Convention for participation in the natural gas balancing market, provided for in the Annex hereto.
- (11) NU shall have all the other rights and obligations under the applicable regulations.

Rights and obligations of the TSO

Art. 5

(1) TSO has the right to fully and duly collect the issued invoices, representing the value of the „Deficit“ type imbalances recorded by the NU.

(2) TSO shall provide the NU with access to the information platform serving the VTP under the conditions provided for in the Procedure for access to the Information Platform serving the VTP.

(3) TSO shall record the notifications, validate and confirm the transfers of the ownership rights, in compliance with the rules provided for in the applicable regulations.

(4) TSO shall determine and make available to the NU its daily imbalance, in accordance with the applicable regulations.

(5) TSO has the right to invoice, in accordance with the provisions and tariffs provided for in the Network Code, the value of the "Deficit" type imbalances including possible late payment penalties;

(6) TSO has the right to call on the financial guarantee for payment submitted by the NU if the NU fails to pay the issued invoices by their due date.

(7) TSO shall allow the NU, at the request of the latter, to access the data / documents underlying the invoices issued hereunder.

(7¹) The TSO has the right to limit/terminate the provision of the natural gas transmission services with 3 calendar days' notice, starting with the day immediately following the day when the NU records outstanding debts under the balancing and VTP access contract.

(8) TSO shall fully and duly pay the value of the „Surplus“ type imbalances recorded by the NU.

(9) TSO shall pay to the NU the value of the invoices issued in accordance with the provisions of the Methodology for calculating the balancing neutrality charges, including their distribution to the users of the natural gas transport network approved by order of the ANRE President, if the outcome of the balancing activity is positive.

(10) TSO shall meet the provisions of the Convention for participation in the natural gas balancing market, provided for in the Annex hereto.

(11) TSO shall have all the other rights and obligations under the applicable regulations.

V. Daily imbalance. Imbalance tariff

Art. 6

The NU daily imbalances, as well as of the daily imbalance tariffs shall be determined according to the provisions of the Network Code.

VI. Invoicing and payment conditions

Art. 7

The TSO shall send to the NU:

- a) by the 15th day of the month, an invoice related to the „Deficit" type final daily imbalances, registered in the previous month, the value of which was calculated in accordance with the rules laid down in the Network Code;
- b) by the 10th day of the month following that in which the neutrality charge is calculated, an invoice related to the difference between the costs and the revenues resulted from the balancing activity, if the result of the balancing activity is negative, calculated according to the methodology for calculating the neutrality charges, approved by order of the ANRE president.

Art. 7¹

The NU permanently monitors the compliance of the value of the registered cumulated imbalance, representing the algebraic sum of the daily imbalances recorded during the delivery month, with the level of the guarantee calculated according to Art. 12 (7). If the amount of the cumulated imbalance is of the "Deficit" type, the amount of the cumulated imbalance may not exceed the amount of the balancing guarantee established by the NU.

Art. 7²

The NU shall send to the TSO:

- a) by the 15th of the month at the latest, an invoice for the "Surplus" type final daily imbalances, recorded in the previous month, the amount of which has been calculated in accordance with the regulations laid down in the Network Code;
- b) by the 10th day of the month following that in which the neutrality charge is calculated, an invoice related to the difference between the costs and the revenues resulted from the balancing activity, if the result of the balancing activity is positive calculated according to the methodology for calculating the neutrality charges, approved by order of the ANRE president.

Art. 8

(1) The payment of the invoices provided for in art. 7 and 7² shall be made in lei within 15 calendar days from the date of invoice issue. If the due date is a non-working day, the deadline is deemed to be met on the following business day.

(2) All payments made by the NU shall be made by bank transfer to the account specified by the TSO.

(3) All payments made by the TSO shall be made by bank transfer to the account specified by the NU.

(4) During the term of the contract, either party may choose another bank, provided that prior notice is given to the other party at least 30 days before the due date of the payment.

(5) Mutual debts shall be offset in accordance with the provisions of Law no.227/2015 on the Tax Code, as amended and supplemented.

Art. 9

Payment shall be considered to have been made on time if by the due date the amount was collected in the account of the TSO or the NU, as the case may be.

Art. 10

(1) If an invoiced amount is challenged in full or in part, the claimant shall submit an Explanatory Note, including his objections, within 3 (three) working days from the date of the invoice communication, by fax or e-mail with extended electronic signature and shall pay the uncontested amount until the payment deadline, according to art.8.

(2) The objections regarding the invoiced values presented in the explanatory note will be reconciled between the parties within 3 (three) working days from the receipt of the formulated claims.

(3) For the amounts challenged, but subsequently settled amicably or by a final court decision, the debtor shall pay, in addition to the amount due, penalty interest calculated according to the provisions of art. 11.

(4) If after the appeal the reduction of the invoiced values was established, the debtor shall be refunded any amounts and related penalties calculated according to par. (3), already paid, corresponding to the respective reduction, within 3 working days.

Art. 11

(1) The failure to meet the obligation to pay the invoices, within the term stipulated in art. 8 para. (1) entails the following:

- a) charging a late payment rate, calculated in relation to the unpaid value equal with the default interest due for having not paid the budgetary obligations within the deadline, for each day of delay starting with the 16th calendar day from the date of invoice issue to the full payment thereof, including the date of payment, or until the drawing on the guarantee under the contract, in case of default, within 15 calendar days from the due date;
- b) the performance of the guarantees presented by the NU in accordance with the provisions of art. 12, only for amounts due and unpaid and the related default interests.

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

VII. - Guarantees**Art. 12**

(1) NU has the obligation to provide in favour of the TSO a financial payment guarantee that covers the risk of non-payment of the invoices issued by the TSO.

(2) The guarantee provided for in par. (1) shall not be established for operators of trading platforms and central counterparties.

(3) The NU may be exempted from the obligation to establish the financial guarantee for payment referred to in para. (1) if it proves that it has a credit rating issued by one of the rating agencies approved by the TSO at least at the same level as the one granted to the

TSO, valid for the duration of this contract; if the rating is valid for a parent company of the NU, it shall be accompanied by a letter from the parent company undertaking to guarantee the payment obligations for the NU.

(4) In the event that, during the duration of this contract, the rating granted to the NU is modified so as to fall below the rating of the TSO as well as in case the rating agency is changed in relation to the provisions of para. (3), the NU is obliged to notify the TSO in this respect within 3 calendar days from the occurrence of the modification / change.

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

- a) a letter of bank guarantee in lei or in the Euro equivalent at the exchange rate of the European Central Bank on the day of guarantee issue; and / or
- b) a guaranteed account (collateral deposit) in lei or in the Euro equivalent at the exchange rate of the European Central Bank on the day of guarantee issue; and / or
- c) an escrow account in lei or in the Euro equivalent at the exchange rate of the European Central Bank on the day of guarantee issue.
- d) in cash, in the guarantee account of the TSO.

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

(7) The level of the financial guarantee (NG) provided in para. (1) will be NG= 1.000 RON.

(8) In the event that the amount of the cumulative imbalance of a registered and unpaid NU is of the "Deficit" type and exceeds the amount of the established guarantee, the TSO notifies the NU of the need to supplement the level of the financial guarantee. The TSO shall have the right to restrict access to sale transactions in the VTP starting from the following gas day.

(9) The NU shall have the obligation to supplement the level of the financial guarantee accordingly, at the latest within 2 working days from the date of the notification referred to in paragraph. (8).

(10) If the NU does not supplement the level of guarantee, the TSO has the right to interrupt the provision of natural gas transmission service. The access to the VTP to sales transactions and the provision of gas transmission service will be resumed as soon as the guarantee is supplemented by the NU.

(11) If the amount of the cumulated imbalance calculated in accordance with the provisions of article 7¹ is lower than the level of the financial guarantee established by the NU in accordance with paragraph. (9), the NU may apply for a reduction of the level of the financial guarantee if it has no outstanding invoices in the current gas year. The level of the financial guarantee may under no circumstances be lower than the one set in accordance with paragraph. (7).

(12) The financial guarantee established according to para. (7) shall be valid starting with the banking day preceding the start date of the period for which the balancing and VTP access contract is concluded and shall cease to be valid on the 60th calendar day following the termination of the contract.

(13) If the NU proves its creditworthiness in accordance with paragraph (3), the TSO may request, in the justified cases provided for in paragraph (14), the establishment of a financial guarantee in accordance with the provisions of paragraph (7) and (9).

(14) It is considered a justified case the fact that the NU is late in payment for at least 10% of the amount of the last «Deficit» imbalance invoice or of the amount of the partial payment obligations after a notification has been received from the TSO in this regard.

(15) TSO may call on the guarantee provided for in this Chapter if the NU does not fully or partially fulfil its contractual obligations or performs them late.

(16) At least 5 calendar days prior to the call on of the guarantee, the TSO has the obligation to notify in writing the NU, stating the breached obligations.

(17) In the event of the partial or total call on of the financial guarantee, the NU has the obligation to re-establish this guarantee in accordance with the provisions of para. (7) and (9).

VIII. Force majeure / fortuitous event

Art. 13

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

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

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

Art. 14

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

(2) Parties are released from 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.

IX. Confidentiality Clause

Art. 15

(1) The parties shall 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),:
- (i) those that may be disclosed in accordance with the Network Code;
 - (ii) those for the disclosure of which the written agreement of the other contracting party has been obtained;
 - (iii) those required by the authorized state bodies, based on a legal obligation to inform.
- (3) The provisions of this article shall remain in force for a period of 5 years after the cease and termination of the contractual relations.

X. Assignment of the contract

Art. 16 This contract may not be assigned.

XI. – Applicable legislation and dispute settlement

Art. 17

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

XII. Notifications

Art. 18

- (1) The parties shall notify each other during the performance of this contract to the place of business indicated in the introductory part of this contract of any change in the circumstances envisaged at the date of signature of this contract.
- (2) The deadline for notification shall be no more than 5 calendar days from the date of the change of circumstances, unless otherwise specified in this contract.
- (3) The notification modalities shall be determined by mutual agreement between the parties, in accordance with the provisions of the Network Code.
- (4) Parties shall communicate with each other by written letters, fax and e-mail

XIII. Contractual liability

Art. 19 For breach of contractual obligations, the defaulting party shall pay damages to the other party, in accordance with the provisions of Art.1.531 et seq. of the Civil Code.

XIV. Contract termination

Art. 20 Either party is entitled to terminate the contract in case of culpable breach of the contractual obligations in full or in part by the other party.

Art. 21

(1) The intention to terminate the contract must be notified to the other party and to ANRE within 45 (fourty-five) days from the date on which the obligation should have been fulfilled.

(2) Termination by either party as a result of a simple breach by the other party of the contractual obligations regarding the payment of imbalance tariffs or balancing guarantees as provided for in Art. 7¹ and Art. 12

shall be made without the intervention of the court, without notice of default and without any other prior formality, with the exception of giving written notice of termination to the other party at fault at least 3 (three) calendar days before the date specified in the notice for the termination of the contract..

XV. Suspension of the contract execution

Art. 22

(1) If, during the performance of the contract, the conditions on the basis of which the contract was concluded are no longer met, the NU has the obligation to notify the TSO within 24 hours of the occurrence of such change.

(2) If the NU fails to comply with the obligation under para. (1), the TSO has the right to partially or totally suspend this contract, with prior submission of a notification.

(3) NU shall not be entitled to claim damages for the suspension of the contract or a part of it as a result of the NU's failure to comply with the conditions for access to the VTP.

XVI. Contract termination

Art. 23

(1) This contract ceases to be effective in the following cases:

- a) the expiry of the validity period established according to the provisions of Art. 3;
- b) by mutual agreement of the parties, on the basis of an addendum;
- c) by termination in accordance with point XIV;
- d) following a case of force majeure / fortuitous event, according to the contract.

(2) The cease of this contract is without prejudice to the performance of tthe contractual obligations in force within the validity of this contract, irrespective of the moment of their expiration.

XVII. Modification of the legal circumstances

Art. 24

For the purpose of this contract, "modification of the legal circumstances" means the case when, during this contract, one or more regulatory acts come into force which, in relation to the subject matter of the regulation, justify the lawful amendment and/or supplementation of the contract to ensure compliance with the regualtory provisions.

XVIII. Other clauses

Art. 25

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

(2) By exception from the provisions of para. (1), this contract is automatically amended or supplemented by any amendment or supplementation applicable to the contract of balancing and access to the VTP or to the TSO-NU contractual relationship , established by a national or European regulatory act, each party having the obligation to adopt the amendments/supplementations.

This contract was concluded today, on, in two original counterparts, and each party declared to have received an original thereof.

Transmission System Operator
SNTGN TRANSGAZ SA

Network User