

**GENERAL TERMS AND CONDITIONS TO WHICH NETWORK USERS SHALL AGREE IN ORDER TO OBTAIN ACCESS TO CAPACITY IN THE BINDING PHASE OF CAPACITY ALLOCATION OF THE INCREMENTAL CAPACITY PROCEDURE ON THE BORDER BETWEEN UKRAINE AND ROMANIA at IP Isaccea1/Orlovka1 for the flow direction (RO-UA)  
(hereinafter the 'INC GT&C')**

1. General Provisions

- 1.1. This document establishes the general terms and conditions to which network users shall agree in order to obtain access to capacity in the binding phase of capacity allocation of the incremental capacity procedure that will be allocated at the auction for the interconnection points.
- 1.2. Access to the capacity that will be allocated at the auction of incremental capacity allocation for interconnection points will be provided in accordance with the Natural Gas Transportation Agreement concluded with a network user in accordance with the Framework Natural Gas Transportation Agreement approved by the NEURC Resolution No. 2497 of 30.09.2015 (with amendments and additions), in accordance with the requirements of the Gas Transmission System Code approved by the NEURC Resolution No. 2493 of 30.09.2015 (hereinafter the 'GTS Code'), taking into account the features established by these INC GT&C, and while applying tariffs for natural gas transmission services established by the Regulator for entry points and exit points (hereinafter the 'Tariffs') for the relevant regulatory period.
- 1.3. By signing the Application for Accession to the INC GT&C, a network user agrees to the relevant terms and conditions for providing access to the capacity that will be allocated to the network user in accordance with the procedure for the allocation of incremental capacity.
- 1.4. These INC GT&C are posted in Ukrainian and English on the website of Limited Liability Company Gas Transmission System Operator of Ukraine (hereinafter 'LLC Gas TSO of Ukraine').

In case of a discrepancy between Ukrainian and English wording of the INC GT&C, the text written in Ukrainian shall prevail.

## 2. Terms

In these INC GT&C, the following terms are used with the following meanings:

- 2.1. Auction — an annual incremental capacity allocation auction in the form of bundled yearly capacity that is conducted on the terms set forth in the GTS Code and the Commission Regulation (EU) 2017/459 under which the incremental capacity is allocated for the interconnection point with Romania Isaccea1/Orlovka1 in the direction from Romania to Ukraine (hereinafter the 'IP').
- 2.2. Limited Liability Company Gas Transmission System Operator of Ukraine — a business entity that is the gas transmission system operator of Ukraine.
- 2.3. SNTGN Transgaz S.A. — the company the full name of which is the National Gas Transmission Company "TRANSGAZ" S.A. that has its seat in Mediaş and is the gas transmission system operator of Romania.
- 2.4. RBP Platform — an auction platform that is used by LLC Gas TSO of Ukraine and SNTGN Transgaz S.A. for allocation of incremental capacity at the IP Isaccea1/Orlovka1.
- 2.5. Project — the project to create incremental capacity between the gas transmission system of Romania and the gas transmission system of Ukraine in accordance with Article 28(1) of Commission Regulation (EU) 2017/459.
- 2.6. Network User — a private entrepreneur or a legal entity that orders one or several components of the gas transmission services according to the Natural Gas Transportation Agreement concluded with the gas transmission system operator.

## 3. Binding Phase of Incremental Capacity Allocation

- 3.1. In the binding phase of incremental capacity allocation under the Project, LLC Gas TSO of Ukraine shall allocate incremental capacity for the IP Isaccea1/Orlovka1 in the direction from Romania to Ukraine, under fifteen (15) yearly incremental capacity products, during fifteen (15) gas years, from 1 October 2024 07:00 a.m. to 1 October 2039, 07:00 a.m.
- 3.2. Each yearly product shall be allocated at a separate Auction for:

incremental capacity at the level of 108 279 087 kWh/d/year<sup>1</sup> for 2024/2025-2026/2027 gas years;

incremental capacity at the level of 185 868 671 kWh/d/year for 2027/2028-2028/2029 gas years;

incremental capacity at the level of 173 726 551 kWh/d/year for 2029/2030-2038/2039 gas years.

#### 4. Terms of Participation in an Auction

- 4.1. LLC Gas TSO of Ukraine shall conduct the binding phase of incremental capacity allocation on the RBP Platform in accordance with the terms and conditions of this platform as of the day of conducting the Auction, in accordance with the GTS Code.
- 4.2. In order to participate in the Auction, a network user, no later than one week before the start of the Auction, shall:
  - a) conclude the Natural Gas Transportation Agreement with LLC Gas TSO of Ukraine in the wording of the Framework Natural Gas Transportation Agreement approved by the Regulator;
  - b) not have any overdue debts towards LLC Gas TSO of Ukraine for previously provided natural gas transmission services;
  - c) be registered on the RBP Platform as a user that is entitled to participate in auctions of LLC Gas TSO of Ukraine and SNTGN Transgaz S.A.;
  - d) sign and send to LLC Gas TSO of Ukraine an Application for Accession to these INC GT&C.

#### 5. Financial Security

- 5.1 In order to participate in the Auction, the network user shall submit a **financial security** confirming the network user's financial capability to perform the obligations owed to LLC Gas TSO of Ukraine under the bid, in the form, date and amount specified in this INC GT&C.
- 5.2. The network user has to establish the security in one of the following form:

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<sup>1</sup> Assumed gross caloric value 11.15 kWh/m<sup>3</sup> (0/25)

5.2.1. **Bank guarantee;**

5.2.2. **Cash deposit.**

Financial security is provided by the network user in the form of an original bank guarantee or a confirmed bank transfer to the bank account of LLC Gas TSO of Ukraine.

- 5.3. No later than June 24, 2024, the network user must provide a one-time financial payment in cash in Hryvnias (UAN), US dollars (USD) or Euros (EUR) equivalent to 1,000 US dollars. This financial one-time payment allows you to participate in the Auctions that will take place on July 1, 2024. This financial one-time payment will be counted as payment for the first periods of using the natural gas transportation service. In the event that the network user does not participate in the Auctions for reasons beyond the control of LLC Gas TSO of Ukraine, this one-time financial payment will not be returned to the network user. In the case of a negative test, the one-time financial payment is returned to the network user account in full amount within 30 working days after the end of the Auction..

The cash are deposited into the bank account specified by LLC Gas TSO of Ukraine: UA853204780000026001924861025. The transfer should contain the heading: "one-time financial payment for participation in auctions of incremental capacity for interconnection point Isacceal/Orlovka1". The moment of provision of security is considered to be the moment when cash are credited to the account of LLC Gas TSO of Ukraine.

- 5.4. No later than July 8, 2024, the network user who was allocated capacity within the results of the Auctions must provide financial security. Provision of financial security in the amount specified in clause 5.5. this INC GT&C is a mandatory condition for concluding Annex 1 to the Standard Natural Gas Transportation Agreement with the network users.

- 5.5. The value of the financial security to be submitted by the network user in case of applying for capacity allocation in the Auction for:

(i) one (1) yearly product — shall be **twice** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

(ii) two (2) yearly products — shall be **three times** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

(iii) three (3) yearly products — shall be **four times** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

(iv) four (4) yearly products — shall be **five times** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

(v) five (5) yearly products — shall be **six times** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

(vi) from six (6) to seven (7) yearly products — shall be **seven times** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

(vii) from eight (8) to nine (9) yearly products — shall be **eight times** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

(viii) from ten (10) to eleven (11) yearly products — shall be **nine times** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

(ix) from twelve (12) to thirteen (13) yearly products — shall be **ten times** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

(x) fourteen (14) yearly products — shall be **eleven times** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

(xi) fifteen (15) yearly products — shall be **twelve times** the monthly average of the network user`s financial obligations to LLC Gas TSO of Ukraine;

5.6. Financial security in the form of a bank guarantee and/or cash deposit can be provided in Hryvnias (UAN), US dollars (USD) or Euros (EUR).

5.7. In the case of establishing security in the form of a bank guarantee LLC Gas TSO of Ukraine requires that the guarantee document indicates that the guarantee is irrevocable, non-transferable, unconditional and payable at the first demand of LLC Gas TSO of Ukraine.

In order to minimize financial risks, LLC Gas TSO of Ukraine sets the following criteria for banking institutions that provide a bank guarantee:

5.7.1. Requirements towards **resident banks of Ukraine**:

5.7.1.1. a resident bank of Ukraine, in which the state directly or indirectly owns a share of more than 75% of the bank`s share capital, or

5.7.1.2. a resident bank of Ukraine, which has a long-term credit rating under the national rating scale not lower than "uaAAA" (if no rating for banks of foreign banking groups is assigned under the national rating scale, the rating of the parent foreign banking groups from one of the rating companies, such as Fitch, Moody's, S&P shall be not lower than high credit quality (A- or higher one));

5.7.1.3. the bank is not subject to sanctions of states or intergovernmental organisations that fully or partially restrict and/or prohibit and/or may adversely affect the fulfilment by the bank of its obligations to ensure the procurement procedure and/or to ensure the execution of the contract, in particular, the relevant sanctions of the National Security and Defence Council of Ukraine (in accordance with the Law of Ukraine "On Sanctions"), the Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury and the European Commission of the European Union.

5.7.2. Requirements towards **foreign banks**:

5.7.2.1. a foreign bank, which has a credit rating of one of the rating companies, such as Fitch, Moody's, S&P, not lower than high credit quality (A- or higher one);

5.7.2.2. the bank is not subject to sanctions of states or intergovernmental organisations that fully or partially restrict and/or prohibit and/or may adversely affect the fulfilment by the bank of its obligations to ensure the procurement procedure and/or to ensure the execution of the contract, in particular, the relevant sanctions of the National Security and Defence Council of Ukraine (in accordance with the Law of Ukraine "On Sanctions"), the Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury and the European Commission of the European Union.

5.8. In the case of providing financial security in the form of cash deposit, it is deposited into the indicated bank account of the LLC Gas TSO of Ukraine: UA853204780000026001924861025. The transfer should be entitled: "financial security of the incremental capacity at interconnection point Isacceal/Orlovka1". The time of submission of security is considered credited to the account of LLC Gas TSO of Ukraine.

5.9.1. the LLC Gas TSO of Ukraine reserves the right to use a financial security provided by banking institutions, in case that the network user delays payment for natural gas transportation services, for

the capacity that was booked within the process of these Auctions and/or has other fines and /or delays the reimbursement of expenses, which is defined by the GTS Code.

5.9.2. LLC Gas TSO of Ukraine credits the cash deposit provided as financial security in proportion to the validity period of the capacity order to cover part of the costs for payment of natural gas transportation services.

5.10. In order the condition of using the financial security of the LLC Gas TSO of Ukraine, the network user must immediately, not later than 5 (five) working days from the moment of using the financial security of the LLC Gas TSO of Ukraine, supplement the financial security for all the necessary the amount determined in accordance with clause 5.5. of this INC GT&C.

5.11. In case that the network user does not maintain an adequate level of financial security in accordance with sub-paragraph 5.5. of this INC GT&C and did not restore the appropriate amount of financial security within 30 working days from the moment of notification of this from LLC Gas TSO of Ukraine, the amount of financial security for the network user is doubled. In the amount determined by the double value of the financial security payable.

## 6. Economic Test and Project Implementation Agreement

6.1. Within 2 (two) working days from the date of completion of the Auction for the allocation of incremental capacity, LLC Gas TSO of Ukraine shall conduct an individual and combined economic tests and publish their results.

6.2. Based on the results of individual economic tests, LLC Gas TSO of Ukraine and SNTGN Transgaz S.A. should conduct a combined economic test.

## 7. Project Implementation Agreement

7.1. If the result of the combined economic test is positive, LLC Gas TSO of Ukraine together with SNTGN Transgaz S.A. shall conclude a Project implementation until 30 September 2025.

7.2. If the result of the combined economic test is negative, a Project Implementation Agreement shall not be concluded and the incremental capacity shall not be allocated.

## 8. Capacity Allocation

8.1. The signing of Annex 1 to the Framework Natural Gas Transportation Agreement «Capacity Allocation» (hereinafter referred to as «Capacity Allocation»), or making amendments to the applicable Capacity Allocation with a network user to whom the capacity will be allocated at the Auction, shall be carried out after the conclusion of a Project Implementation Agreement between LLC Gas TSO of Ukraine and SNTGN Transgaz S.A.

8.2. LLC Gas TSO of Ukraine within 5 (five) working days from the date of conclusion of a Project Implementation Agreement shall send to the network user a draft Capacity Allocation, taking into account the capacity that was allocated to the network user in the binding phase of incremental capacity allocation at the Auction.

8.3. Within 5 (five) working days from the date of the receipt of the draft Capacity Allocation, the network user shall provide LLC Gas TSO of Ukraine with Capacity Allocation signed by the network user.

## 9. Possible Changes in the Provision of Access to Capacity under the Project

9.1. LLC Gas TSO of Ukraine shall notify network users who were allocated the capacity in the binding phase of incremental capacity allocation at the Auction of any changes in the implementation of the Project that may affect the proper and timely provision of such network users with access to the capacity.

Such a notification, indicating the reasons for the changes in the implementation of the Project, shall be sent to a network user no later than 6 (six) months before the date of granting access to the capacity that was allocated in the binding phase of incremental capacity allocation at the Auction.

9.2. The date of completion of works on the implementation of the Project may be postponed for a period of no more than 24 (twenty-four) months, provided that a network user is notified.

In such a case, LLC Gas TSO of Ukraine shall unilaterally cancel the allocation of capacity for the period from the date of granting access to the capacity that was allocated in the binding phase of incremental capacity allocation at the Auction, until the new date



of the start of granting access to capacity within a 24 (twenty-four) month period.

Herewith a network user shall not have the right to refuse from access to the capacity that was allocated in the binding phase of incremental capacity allocation at the Auction and will be provided after the new date of the start of providing access to the capacity.

Within 14 (fourteen) days from the date of the receipt of a draft Capacity Allocation, which provides for appropriate adjustments, a network user shall provide LLC Gas TSO of Ukraine with the Capacity Allocation signed by the network user.

- 9.3. In the case of changes in the implementation of the Project that lead to the creation of capacity that is smaller than the capacity planned under the Project, and provided that the capacity that is allocated in the binding phase of the incremental capacity allocation at the Auction exceeds the actually created capacity in the relevant gas year, LLC Gas TSO of Ukraine shall proportionally reduce the amount of allocated capacity to the amount of actually created capacity for all network users who received access to capacity in the relevant gas year.

Within 14 (fourteen) days from the date of the receipt of a draft Capacity Allocation, which provides for the appropriate adjustments, a network user shall provide LLC Gas TSO of Ukraine with the Capacity Allocation signed by the network user or refuse entirely or partly from the capacity in the relevant gas year.

In case if a network user within 14 (fourteen) days from the date of the receipt of a draft Capacity Allocation, which provides for the appropriate adjustments, does not provide LLC Gas TSO of Ukraine of Ukraine with a signed Capacity Allocation, it is deemed that the network user refused from all capacity in the relevant gas year.

- 9.4. Depending on the total amount of allocated capacity on the basis of Capacity Allocations, which provide for the appropriate adjustments, in accordance with Clause 9.3 of these INC GT&C, LLC Gas TSO of Ukraine shall notify network users who have signed the Capacity Allocation, which provides for appropriate adjustments, on the amount of capacity released as a result of the refusal of other network users and which may be allocated to them on a pro rata basis in the corresponding gas year.

Within 14 (fourteen) days, network users shall inform of their decision to accept or reject the offer of LLC Gas TSO of Ukraine regarding the allocation of the released capacity in the relevant gas year.

Within 14 (fourteen) days from the date of the receipt of a network user's decision on accepting the proposal of LLC Gas TSO of Ukraine regarding the allocation of the released capacity in the relevant gas year, LLC Gas TSO of Ukraine shall send to the network user a draft Capacity Allocation.

Within 14 (fourteen) days from the date of the receipt of a draft Capacity Allocation, a network user shall provide LLC Gas TSO of Ukraine with the Capacity Allocation signed by the network user.

In case if a network user did not provide LLC Gas TSO of Ukraine with a signed Capacity Allocation within 14 (fourteen) days from the date of the receipt of a draft Capacity Allocation, it is deemed that the network user has refused from the allocation of the released capacity. In such a case, LLC Gas TSO of Ukraine shall allocate the released capacity at auctions for allocation of capacity on interconnection points according to the standard procedure.

- 9.5. LLC Gas TSO of Ukraine shall not be liable for the lost profit of a network user or any indirect damages arising from delays in the implementation of the Project and/or the unavailability of incremental capacity, and/or any actions or inactivity of an operator of an adjacent gas transmission system in the incremental capacity procedure.

## 10. Final Provisions

- 10.1. The Application for Accession to the General Terms and Conditions to Which Network Users Shall Agree in Order to Obtain Access to Capacity in the Binding Phase of Capacity Allocation of the Incremental Capacity Procedure is an integral annex to these INC GT&C, and, after being signed by a network user and submitted to LLC Gas TSO of Ukraine, becomes an integral part of the natural gas transportation agreement concluded with a network user.

**Application for Accession**

to the General Terms and Conditions to Which Network Users Shall Agree in Order to Obtain Access to Capacity in the Binding Phase of Capacity Allocation of the Incremental Capacity Procedure

“Network User” EIC-code \_\_\_\_\_, has become acquainted with the features of the allocation procedure and provision of access to the incremental capacity and accepts without any exceptions all terms and conditions of access to the capacity allocated at the incremental capacity allocation auction, which were approved by the Regulator's resolution No. \_\_\_\_ dated \_\_. \_\_. \_\_\_\_.

By signing this Application for Accession to the General Terms and Conditions of access to capacity which is allocated at the incremental capacity allocation auction, the Network User agrees to the relevant conditions for providing access to the capacity allocated to the Network User in accordance with the incremental capacity allocation procedure.

This Application for Accession to the General Terms and Conditions of access to capacity which is allocated at the incremental capacity allocation auction is an integral part of the Natural Gas Transportation Agreement No. \_\_\_\_ dated \_\_. \_\_. \_\_\_\_.

Network User

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*(position, full name, signature)*