



**[Entry/Exit]  
Standard  
Capacity Contract  
for [Monthly/Quarterly/Yearly] Capacity Products**

**Published on 29.12.2016**

**([Code to be inserted])**

**between**

**Trans Austria Gasleitung GmbH**

Wiedner Hauptstrasse 120  
1050 Vienna  
Austria

**and**

**[Name of System User]**

[Legal Office Address to be inserted]  
[Legal Office ZIP Code to be inserted]  
[Legal Office Country to be inserted]

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This [Entry/Exit] Standard Capacity Contract for [Monthly/Quarterly/Yearly] Capacity Products (hereinafter referred to as “Capacity Contract”) is made on **[Date to be inserted]** (hereinafter referred to as the “Effective Date”) by and between Trans Austria Gasleitung GmbH, a company existing and incorporated under the laws of Austria, having its legal office at Wiedner Hauptstrasse 120, 1050 Vienna, Austria (hereinafter referred to as “TAG GmbH” or the “TSO”) and **[name of System User]**, a company existing and incorporated under the laws of **[country]**, having its legal office at **[street and zip code]**, **[country]** (hereinafter referred to as “**[name of System User]**” or the “System User”).

TAG GmbH and **[name of System User]** are also referred to individually as a “Party” and collectively as the “Parties”.

## **RECITALS**

**WHEREAS**, TSO has available capacity at the [Entry/Exit] Point of the TAG Pipeline System (as defined below) and is willing to provide a natural gas transportation service to System User in accordance with the terms and conditions of this Capacity Contract;

**WHEREAS**, System User is willing to obtain from TSO said service in the TAG Pipeline System in accordance with the terms and conditions of this Capacity Contract;

This Capacity Contract, including all Annexes, contains the provisions for the service to be rendered by TSO to the System User at the [Entry/Exit] Point.

**NOW THEREFORE HAVING STATED AND IN CONSIDERATION OF THE ABOVE, IT IS HEREBY AGREED AS FOLLOWS:**

## Article 1 Definitions

The definitions outlined in the Other Market Rules Gas Chapter 1 shall apply to this Capacity Contract.

Except not explicitly defined in the Other Market Rules Chapter 1 the capitalised and uppercase terms defined in this Capacity Contract shall be taken as reference.

Any reference to time shall be construed as whatever official time in force in Austria.

The headings in this Capacity Contract are inserted for convenience only and shall be ignored in construing this Capacity Contract.

Except where the context otherwise requires, words denoting the singular include the plural and vice versa; words denoting any gender include all genders; words denoting persons include firms and corporations and vice versa.

## Article 2 Capacity

Subject to the terms and conditions of this Capacity Contract, starting from **[Date to be inserted]**, 06:00 a.m. (“**Start-up Date**”) and for its entire duration, TSO shall make available to the System User capacity at the [Entry/Exit] Point equal to the following maximum flow rate (“**Booked Flow Rate**”), expressed in kWh/h for the specified period.

<b>[Entry/Exit] Point</b>	<b>Booked Flow Rate (kWh/h) (Q)</b>	<b>Type of Capacity</b>	<b>Start-up Date</b>	<b>End Date</b>
[To be inserted]	[To be inserted]	[FZK/UK/DZK To be inserted]*	[To be inserted], 06:00 a.m.	[To be inserted], 06:00 a.m.

\* The meaning of [FZK (Frei zuordenbare Kapazität)], [UK (Kapazität unterbrechbar)] [and DZK (Kapazität dynamisch zuordenbar)] is defined in the Other Market Rules Chapter 1.

### Article 3 Transportation Service

Subject to the terms and conditions of this Capacity Contract and its Annexes, starting from **[Date to be inserted]**, 06:00 a.m.

- (i) System User shall have the right to nominate quantities of Natural Gas within the Booked Flow Rate at [Entry/Exit] Point according to the provisions stated in Article 4 below.
- (ii) TSO shall [accept/deliver] the quantities of Natural Gas nominated in accordance with the Other Market Rules in force and within the Booked Flow Rate set forth in Article 2 above.
- (iii) If the Booked Flow Rate of System User with Transportation Service on UK basis (interruptible capacity hereinafter referred to as “UK”) is not entirely available for the Transportation Service, for whatever reason, GSNE – VO 2013, Annex 1 shall be applied and pursuant to the formula defined therein the maximum monthly reduction of the Fee  $E_{Rm}$  shall not exceed the Fee  $E_m$  paid by System User to TSO. [The relevant compensation factor (“rf”) to be applied is defined under Article 5.]

In any case of reduction/interruption TSO shall use its reasonable efforts to minimize any such reduction/interruption. Following shall be applied:

  - the Transportation Service to be performed by TSO to system users affected by the reduction/interruption and to be performed on FZK basis (freely allocable capacity hereinafter referred to as “FZK”) shall have priority over the corresponding Transportation Services provided on UK basis;
  - if the total nominations under the FZK Transportation Service exceed the available capacity, TSO shall allocate the available capacity to the FZK Transportation Service on a pro rata basis, calculated on the basis of the Booked Flow Rate;
  - if the total nominations under the FZK Transportation Service do not exceed the available capacity, the available capacity exceeding the total nominations under FZK Transportation Service shall be allocated to the UK Transportation Service on a pro rata basis, calculated on the basis of the Booked Flow Rate as long as no different priority levels of UK Transportation Services are defined.

In case capacity contracts for UK transportation capacity under different priority levels are concluded the available capacity exceeding the total nominations under the FZK Transportation Service shall be allocated to the nominations under the UK Transportation Service taking into account the date of

contract conclusion (“timestamp”) of the respective capacity contracts on UK basis. In case of a reduction/interruption, capacity contracts on UK basis becoming effective earlier shall prevail over capacity contracts on UK basis becoming effective later (e.g. Yearly UK capacity has priority over Quarterly/ Monthly/Day-Ahead UK capacities; Quarterly UK capacity has priority over Monthly/Day-Ahead UK capacity and Monthly UK capacity has priority over Day-Ahead UK capacity).

If two or more nominations are ranked at the same position within the interruption order and the TSO does not interrupt all of them, a pro rata reduction of these specific nominations on the basis of their respective nomination shall apply.

#### **Article 4 Balance Group nomination**

- 4.1 The Booked Flow Rate resulting from this Capacity Contract may only be nominated following allocation of such capacity to a Balance Group and/or a Sub-Balance Account by the Balance Group Responsible (“Bilanzgruppenverantwortlicher BGV”) in accordance with the Other Market Rules in force as well as in accordance with and subject to the provisions of Annex 5 the “Terms and Conditions for Balance Group Management”. The System User shall perform the allocation to a Balance Group in due time. The respective lead times are also published on [www.taggmbh.at](http://www.taggmbh.at).
- 4.2 The System User has to ensure that an authorization by the Balance Group Responsible exists, in order to enable the capacity allocation to the appropriate Balance Group(s) or to a Sub-Balance Account in accordance with this Capacity Contract and communicate this information to the TSO according to the rules of the Other Market Rules and any other provisions defined by the TSO.
- 4.3 Should the Balance Group Responsible violate provisions of the market rules and therefore limitations to nominations or suspension of the authorization to nominate have been made, this shall not affect the validity of this Capacity Contract and the payment obligation of the System User. If these capacity rights of the Balance Group and/or Sub-Balance Account are assigned to another Balance Group Responsible with a valid nomination permission or the contractual requirements between Balance Group Responsible and Market Area Manager are restored, these capacity rights are fully entitled to be nominated.
- 4.4 The allocation of capacity to a Balance Group or a Sub-Balance Account shall remain valid as long as the contractual obligations are met by the System User. The allocation of capacities is otherwise deemed void.

- 4.5 Balance Group Responsible on behalf of System User is obliged to notify TSO of any change of 3<sup>rd</sup> party delivering/off-taking with 3 (three) working days in advance. In the event that Balance Group Responsible fails to provide such information in a timely manner TSO cannot be held responsible for any damages occurring due to a mismatch with the interconnected transmission system operator.

## Article 5 Fee

Subject to the terms and conditions of this Capacity Contract starting from **[Date to be inserted]**, 06:00 a.m. (CET) and for its entire duration, System User shall pay to TSO on a monthly and ship or pay basis a Fee “E<sub>m</sub>” (expressed in Euro per month) calculated as follows:

*[Remark: applicable coefficients will be chosen according to the type of capacity product (Monthly/Quarterly/Yearly) in accordance with the Gas System Charges Ordinance 2013, Amendment 2017]*

$$E_m = E_{m1} + E_{m2}$$

Where:

$$E_{m1} = \left[ \left( \frac{SUC_{[Ben/Bex/Aen/Aex]}}{365} * D * K_{en/ex} * 100 \right) * Q \right] / M / 100 \text{ (Rounded to integers in Euro)}$$

$$E_{m2} = (AP * Q) / M / 100 \text{ (Rounded to integers in Euro)}$$

[For the Entry Point Baumgarten:

- SUC<sub>Ben</sub> (System Utilisation Charge <sub>Baumgarten Entry</sub>) = **0.77 €(kWh/h)** per year]

[For the Exit Point Baumgarten:

- SUC<sub>Bex</sub> (System Utilisation Charge <sub>Baumgarten Exit</sub>) = **1.12 €(kWh/h)** per year]

[For the Entry Point Arnoldstein:

- SUC<sub>Aen</sub> (System Utilisation Charge <sub>Arnoldstein Entry</sub>) = **0.62 €(kWh/h)** per year]

[For the Exit Point Arnoldstein:

- SUC<sub>Aex</sub> (System Utilisation Charge <sub>Arnoldstein Exit</sub>) = **4.63 €(kWh/h)** per year]

*[For yearly products:*

- **D = 365**
- **K<sub>en</sub>** (applicable coefficient according to Section 3 par 9 GSNE-VO 2013 Amendment 2017)  
for Entry = **1**

- **K<sub>ex</sub>** (applicable coefficient according to Section 3 par 9a GSNE-VO 2013 Amendment 2017) for Exit = **1**

- **M** (number of months in the relevant period) = 12]

[For quarterly products:

- **D** (number of days in the relevant quarter) = [to be inserted]
- **K<sub>en</sub>** (applicable coefficient according to Section 3 par 9 GSNE-VO 2013 Amendment 2017) for Entry = **1.025**
- **K<sub>ex</sub>** (applicable coefficient according to Section 3 par 9a GSNE-VO 2013 Amendment 2017) for Exit = **1.05**
- **M** (number of months in the relevant period) = 3]

[For monthly products:

- **D** (number of days in the relevant month) = [to be inserted]
- **K<sub>en</sub>** (applicable coefficient according to Section 3 par 9 GSNE-VO 2013 Amendment 2017) for Entry = **1.05**
- **K<sub>ex</sub>** (applicable coefficient according to Section 3 par 9a GSNE-VO 2013 Amendment 2017) for Exit = **1.15**
- **M** (number of months in the relevant period) = 1]
- **AP** = Auction Premium (or Surcharge) expressed in ct€/kWh/h/Runtime = [to be inserted]
- **Q** = respective Booked Flow Rate (expressed in kWh/h) at the [Entry/Exit] Point as per Article 2.

The SUC expressed in ct€/kWh/h/Runtime which applies to this Capacity Contract (SUC<sub>[Monthly/Quarterly/Yearly]</sub> rounded to the second decimal point) is equal to **[Amount to be inserted]**.

The Fee is calculated in accordance with the Gas System Charges Ordinance 2013 and the tariff methods as approved by the Austrian Regulator (Energie-Control Austria) by decree and as subsequently amended and published in its latest version on E-Control's website.

The Fee "E<sub>m</sub>" (expressed in Euro per month) to be charged by TSO to System User on monthly and ship or pay basis relevant for the period from **[Date to be inserted], 06:00 a.m.** to **[Date to be inserted], 06:00 a.m.** on **[Type of capacity to be inserted]** basis shall be as follows:

[Entry Point Baumgarten: [figures to be inserted] ([in words to be inserted])]  
 [Exit Point Baumgarten: [figures to be inserted] ([in words to be inserted])]  
 [Entry Point Arnoldstein: [figures to be inserted] ([in words to be inserted])]  
 [Exit Point Arnoldstein: [figures to be inserted] ([in words to be inserted])]



[For the Booked Flow Rate on FZK and firm DZK basis reductions of the Fee will be granted according to Section 3 par 10 Gas System Charges Ordinance 2013 pursuant to the formula defined in Annex 2 GSNE – VO 2013.]

[For the Booked Flow Rate on UK basis reductions of the Fee will be granted according to Section 3 par 7 Gas System Charges Ordinance 2013 (Annex 1). The applicability of the compensation factor “rf” within the framework of this Capacity Contract, as defined in the relevant formula in Annex 1 of the Gas System Charges Ordinance 2013, is set as follows:

- For yearly products “rf” = 1.5
- For quarterly products “rf” = 1.3
- For monthly products “rf” = 1.1]

TSO will apply the reduction of the Fee as specified above only under the condition that the Balance Group Responsible provides the necessary information in particular the quantities nominated by the System User(s) to TSO according to Section 21 par 1 GMMO-VO 2012.

[For the Booked Flow Rate on interruptible DZK basis no reduction of the Fee will be granted according to Section 3 par 7 Gas System Charges Ordinance 2013.]

## **Article 6 Invoicing and Payment**

6.1 The Fee resulting from Article 5 above does not include any taxes, duties and other levies. The TSO shall be entitled to add to the Fee due by the System User any taxes, duties and/or other levies imposed to the TSO by a public authority in relation to the provision of the Transportation Service. The settlement of invoices issued by the TSO and default of payment events are subject to the provisions of Section XII of the General Terms and Conditions in force.

6.2 TSO shall make available the invoices for the monthly Fee “E<sub>m</sub>” (resulting from the two components E<sub>m1</sub> and E<sub>m2</sub>, if any, as specified in Article 5) and any other invoice related to this Capacity Contract (in PDF format) by means of its website <http://commercialservices.taggmbh.at> and therefore shall enable its System User to download such documents by web application. System User shall provide the contacts (e-mail addresses) for which TSO will provide the required credentials (UserID and Password) to access its web application “Commercial Services”. Only in case of technical problems invoices will be sent by fax. System User shall not be entitled to request the delivery of above mentioned documents by fax or hardcopy.

## **Article 7 Securities and Rating**

7.1 In accordance with Section IV “Request for system access (request for capacity), conclusion of the capacity contract, provision of deposit and securities” of Annex 1 – System User shall

provide to TSO a bank guarantee or cash deposit within 5 (five) working days from the Effective Date, but in any case not later than 5 (five) working days before the Start-up Date.

In case that System User provides a bank guarantee such bank guarantee on first demand shall be issued by an internationally reputed bank (the “Issuing Bank”), that has a long term rating of at least Baa3 Moody’s or equivalent Standard & Poor’s or Fitch, for an amount according to Section IV (5) of Annex 1 (the “Bank Guarantee”).

The security deposit (Bank Guarantee and/or cash deposit) shall be valid until **[End Date plus 3 months to be inserted]**.

Without prejudice to System User’s payment obligation of the monthly Fee under the Capacity Contract and in accordance with Section XII (4) of the General Terms and Conditions in force, TSO shall return the security deposit to System User – or to the Issuing Bank upon written request of the System User in case the security deposit has been provided by System User in form of a Bank Guarantee – no later than **[End Date plus 3 months to be inserted]**.

A form of the Bank Guarantee is attached hereto as Annex 3.

- 7.2 Article 7.1 above shall not apply in the event that the credit rating of System User is equal or higher than A3 Moody’s or equivalent Standard & Poor’s or Fitch (“Rating”). The Rating has to be verified and approved by TSO in writing.
- 7.3 In the event System User – who previously was not obliged to provide a security deposit according to Article 7.2 – ceases to comply with the conditions laid down therein, it shall provide a security deposit in accordance with Section IV of the General Terms and Conditions promptly thereafter and at the latest within 30 (thirty) working days without being requested to do so by TSO. If System User does not comply with this requirement, TSO shall be entitled to terminate the Capacity Contract with immediate effect without prejudice to any other remedy at law available.
- 7.4 In the event System User – who previously was obliged to provide a security deposit – turns to comply with the conditions laid down in Article 7.2, without prejudice to 7.3 above, TSO upon written request by System User shall return to System User the security deposit promptly thereafter and in any case within 10 (ten) working days from such a request of System User.

## **Article 8 Ineffective Provisions**

If any of the provisions of this Capacity Contract, including any part of the General Terms and Conditions is or becomes ineffective, illegal, invalid, unenforceable, inoperative or void, the effectiveness of the other provisions shall not be affected or impaired thereby and will remain in full

force and effect. The Parties undertake to replace the ineffective, illegal, invalid, unenforceable, inoperative or void provision by a new and effective operable provision which approximates to it as closely as possible in economic, technical and/or legal terms.

## **Article 9 Assignment**

Without prejudice to Section 38 of the Austrian Gas Act 2011 TSO may refuse its consent to an assignment for following reasons

- (i) if the assignee has outstanding invoices or TSO has taken legal actions towards the assignee  
or
- (ii) the assignee has not provided a security deposit according to the provisions outlined in Section IV (5) of the General Terms and Conditions.

System User agrees automatically with the final confirmation of the partial Assignment by TSO that as of the effective date of such assignment to the assignee this Capacity Contract is amended accordingly to reflect the assignment. In addition System User has to provide a new security deposit according to Article 7 starting from the effective date of the assignment until the end date. The existing security deposit provided by the System User will be returned at the latest 3 (three) months after the new security deposit was received and accepted by TSO in accordance with Section XII (4) of the General Terms and Conditions in force.

## **Article 10 Term**

10.1 This Capacity Contract shall come into force on **[Date to be inserted]**.

10.2 Notwithstanding Article 10.1 above, the Transportation Service and the corresponding obligation to pay the Fee as per Article 5 shall start on **[Date to be inserted]**, 06:00 a.m.

10.3 This Capacity Contract shall remain in force until the **[End Date to be inserted]**, 06:00 a.m. (“End Date”).

## **Article 11 Allocation**

The allocation shall take place in accordance with the confirmed nominations.

## **Article 12 Miscellaneous**

- 12.1 This Capacity Contract and all information obtained hereunder or related to it, including all construction and operational data, shall be treated as confidential by the Parties (the “Confidential Information”). The Confidential Information may be disclosed to advisors, contractors, banks or other financing entities and employees of the Parties only to the extent required for the proper performance of the obligations arising out of this Capacity Contract. No Party shall be entitled to disclose Confidential Information to any third party without the prior written consent of the other Party, except to appropriate governmental authorities or to Arbitrators under this Capacity Contract or when required by mandatory law or regulations. For disclosures made to third parties, appropriate safeguards shall be taken to prevent the third party from making any further disclosures of such Confidential Information without the prior written consent of the other Party.
- 12.2 Any modification or amendment to this Capacity Contract shall be effective only if made in writing and if duly signed by both Parties.
- 12.3 The Annexes hereto constitute integral part of this Capacity Contract. In the event of any conflict between this Capacity Contract and the Annexes (with exclusion of Annex 1 “General Terms and Conditions”), this Capacity Contract shall prevail.
- 12.4 The Other Market Rules Gas (Chapter 1 to 4) issued by E-Control Austria and as amended from time to time constitute an integral part of this Capacity Contract.

## **Article 13 Applicable Law and Arbitration**

Any dispute arising between or claim of the Parties under this Capacity Contract, its existence or termination, construction or performance shall exclusively and finally be settled by an arbitral tribunal pursuant to the Rules of Arbitration of the International Chamber of Commerce (ICC) in its latest version by 3 (three) arbitrators appointed under the Terms of these Rules. The tribunal shall sit in Vienna (Austria). The arbitration proceedings shall be conducted in English. Austrian law (excluding rules and regulations governing conflicts of laws) shall be applicable in any respect, i.e., also as code of procedure.

**IN WITNESS WHEREOF this Capacity Contract has been duly executed in two (2) originals on the Effective Date.**

**Trans Austria Gasleitung GmbH**

**[Company Name to be inserted]**

-----  
Company stamp and duly signature(s) of authorised representative(s)  
Name(s) in block letters

## **ANNEX 2**

### **Quality and Pressure Specification**

#### **1. Gas Quality**

- 1.1 Natural Gas delivered by [System User/TSO to be inserted] to [System User/TSO to be inserted] at [Entry/Exit to be inserted] Point in the TAG Pipeline System shall comply with the specification laid down in Attachment 1 ("**Quality Specification**").
- 1.2 The Parties acknowledge that the Quality Specification for Natural Gas to be transported in the TAG Pipeline System may be modified by provisions issued by the competent Austrian and/or European authorities. In such event, the corresponding amendments to the Quality Specification shall be forthwith applied also for the purpose of this Capacity Contract.

#### **2. Pressure**

*[Remark Article 2.1, 2.2, 2.3 will be chosen according to the type of contract (Entry or Exit)]*

- 2.1 System User shall deliver the Natural Gas at the Entry Point at a Pressure not lower than [50 bar gauge (*Entry Baumgarten*)/53.5 bara (*Entry Arnoldstein*)] and not higher than 70 bar gauge, unless otherwise stated in the Intake Pressure Specification table of Attachment 1 of this Annex.

[System User shall deliver the Natural Gas at the Entry Point at a Pressure not higher than 70 bar gauge, and in any case not lower than the operating pressure of the relevant pipeline section as established by the Operator with reference to the inlet respectively outlet pressure of the Baumgarten-Compressor Station. *To be inserted in case of Entry Baumgarten*]

If System User delivers Natural Gas at a Pressure lower than the Pressure limit set forth above TSO shall be entitled to reduce the Natural Gas offtaken at the Entry Point in order to restore the above minimum delivery Pressure. If the Natural Gas is delivered by System User at a Pressure higher than the Pressure limit set forth above, TSO shall be entitled to refuse taking delivery of Natural Gas until the above maximum delivery Pressure is restored. For the avoidance of any doubt, it is acknowledged that, if the Natural Gas at the Entry Point does not comply with the Pressure limits set forth above, any system user's Natural Gas which forms part thereof shall also fail so to comply.

- 2.2 TSO shall deliver the Natural Gas at the Exit Point at a Pressure consistent with the actual hydraulic operating conditions in the TAG Pipeline System and in any case not higher than 70 bar gauge, in

line with appropriate agreements in force between downstream operators and TAG as amended and restated from time to time.

- 2.3 If the Natural Gas delivered by TSO at the Exit Point does not comply with the specification laid down in Point 1.1 and [2.2] above, System User shall be entitled to refuse such Natural Gas only in the event that said Natural Gas is refused by the operator of the downstream gas transportation system and such Natural Gas shall be deemed as not delivered at the Exit Point by TSO for all purposes of this Capacity Contract. In such case the Fee  $E_m$  as defined under Article 5 of the Capacity Contract shall be reduced pro-rata by the quantity of Natural Gas not delivered in relation to the Booked Flow Rate. It is however understood that, in such case, TSO shall indemnify System User from and against any losses, damages and costs caused to System User by the delivery of such Natural Gas by TSO at the Exit Point only to the extent requested and properly documented by System User on the basis of the requests and the documentation submitted by the operator of the downstream gas transportation system.

## Attachment 1 to ANNEX 2

### Quality Specification

Chemical composition				
Methane	C <sub>1</sub>	min.	85.00	mol%
Ethane	C <sub>2</sub>	Max.	7.00	mol%
Propane	C <sub>3</sub>	Max.	3.00	mol%
Butane	C <sub>4</sub>	Max.	2.00	mol%
Heavier	C <sub>5+</sub>	Max.	1.00	mol%
Nitrogen	N <sub>2</sub>	Max.	5.00	mol%
Carbon dioxide	CO <sub>2</sub>	Max.	2.00	mol%
Oxygen	O <sub>2</sub>	Max.	0.02	mol%
Sulphur content				
Hydrogen sulphide	H <sub>2</sub> S	Max.	5.4	mg/Nm <sup>3</sup>
Mercaptan sulphur	RSH	Max.	16.1	mg/Nm <sup>3</sup>
Total sulphur	S	Max.	107.0	mg/Nm <sup>3</sup>
Gross Calorific Value	GCV	min.	10.7	kWh/Nm <sup>3</sup>
		Max.	12	kWh/Nm <sup>3</sup>
Dew point				
Hydrocarbon dew point		Max.	0°C	≥41.2 and ≤68.6 bar
Water dew point		Max.	-8°C	at 39.2 bar
Impurities		The natural gas shall be practically free of solids, dust, iron oxide, mud, liquid hydrocarbons, resins, resin-forming constituents and shall not be odorized.		
Temperature	T	Max.	42°C	

### Pressure Specification

Entry/Exit Point	Minimum pressure
Baumgarten	not less than 50 bar gauge
Arnoldstein	not less than 53.5 bara

### ANNEX 3

#### Form of Bank Guarantee

**THIS BANK GUARANTEE** is issued on this [day] day of [month] [year] by [Bank's details to be inserted] (the "Guarantor") in favour of Trans Austria Gasleitung GmbH, a company organised and existing under the laws of Austria having its registered offices at Wiedner Hauptstrasse 120, A-1050 Vienna (together with its successors and permitted assignees "TAG").

[Bank Name to be added] herewith declares to have a Rating equal or higher than **Baa3** Moody's or equivalent Standard & Poor's or Fitch at the date of issue of this Bank Guarantee.

#### WHEREAS

- a) [System User's details to be inserted] ("System User"), on [Date to be added] entered into a capacity contract (Code [code to be inserted]) ("Capacity Contract") with TAG, concerning the transportation of natural gas by TAG, as transmission system operator, through the TAG Pipeline System.
- b) Under the Capacity Contract the transportation fee due by System User to TAG in consideration of the Transportation Service provided by TAG shall be invoiced monthly on a "ship or pay basis" (the "Fee") together with any other amount due and payable under the Capacity Contract and shall be due on the 15<sup>th</sup> day of the month following the month to which the invoice refers.
- c) In accordance with the Capacity Contract System User has to procure a bank guarantee in favour of TAG to guarantee its payment obligations arising out of the Capacity Contract.

NOW THEREFORE, the Guarantor hereby agrees to the following:

- 1. Within the limits of the Maximum Guaranteed Amount set forth in 2 below:
  - (i) the Guarantor hereby irrevocably guarantees the due and prompt payment to TAG of any Fee as well as any other sums from time to time due and payable by System User, its legal successors or assignees, under the Capacity Contract as and when the same shall respectively become due and payable.
  - (ii) Should System User fail, at any time for whatever reason, to pay any amount due to TAG with



regard to any Fee and/or other sums, expressed to be due and payable by it to TAG under the Capacity Contract, upon TAG's first written demand, the Guarantor shall promptly and unconditionally pay to TAG, without set-off or counterclaim, the sum specified in TAG's demand. Any such payment shall be made within seven banking-days from receipt of TAG's written request. The amount payable shall include all such amounts as would have been received by TAG had payment been duly made by System User, as well as all costs (extra-judicial and judicial) and expenses which TAG may incur in collecting from System User and/or Guarantor. Any payment shall be made in the manner as directed by TAG.

- (iii) All payments by Guarantor to TAG shall be made free and clear of all taxes, levies, duties, imposts, fees, deductions or withholdings of any kind and notwithstanding any dispute or objection made by System User or by any other third party concerning the sum demanded or the existence of a breach under the Capacity Contract or otherwise.
- 2. The maximum guaranteed amount under this Guarantee is equal to EURO [*amount (in figures and words)*] ("Maximum Guaranteed Amount") and TAG acknowledges and agrees that Guarantor shall not be obliged to make any payments under this Guarantee which individually or in aggregate exceed the Maximum Guaranteed Amount and TAG undertakes that all its requests to the Guarantor under this Guarantee shall not, individually or in aggregate, exceed the Maximum Guaranteed Amount.
  - 3. This Guarantee is a continuing guarantee which shall be effective as of the date first written above and shall remain in full force and effect until the earliest of:
    - (i) the date on which all duties, liabilities and obligations of System User under the Capacity Contract have been finally and definitively discharged, or
    - (ii) the date on which Guarantor has paid to TAG under this Guarantee an aggregate amount equal to the Maximum Guaranteed Amount.

Anyway, this letter of Guarantee shall expire on [*date to be added 3 (three) months after termination of the Capacity Contract*]; after such date this Guarantee will automatically become null and void and any subsequent claim received by the Guarantor will be invalid.

- 4. TAG's rights under this Guarantee shall not be affected, nor shall Guarantor be exonerated or discharged from its liabilities under this Guarantee by time being given to System User or by any

other indulgence, waiver or concession to System User granted by TAG, by taking, holding, varying, non-enforcement or release by TAG of any other security for any of the payments of which is guaranteed hereunder, or by any other indulgence, waiver or concession to System User.

5. Any communication or notice required or permitted to be given under this Guarantee shall be made in writing (English language shall be used) and shall be sent by registered mail or fax addressed as follows:

- (i) If to the Guarantor:

[Bank]

Tel.: *[to be added]*

Fax: *[to be added]*

Attn.: *[to be added]*

- (ii) If to TAG:

Trans Austria Gasleitung GmbH

Wiedner Hauptstrasse 120

A-1050 Vienna

Tel.: +43 1 597 51 16

Fax: +43 1 597 51 16 58030

Attn.: Commercial Department

6. Any dispute, controversy or claim arising between TAG and the Guarantor on the interpretation and/or fulfilment of this Guarantee shall be finally settled by arbitration in Vienna under the rules of conciliation and arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with said rules. The arbitration Board shall decide according to the substantive Austrian Law and the arbitration shall be conducted in English.

Executed and delivered on the date first written above.

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*[Bank's Stamp & Signature]*

## **ANNEX 4**

### **Communication**

1. Unless otherwise agreed between System User and TSO, all communications made for operational purposes shall be performed by Edigas or Excel-Format via E-Mail, in order to perform communication via Excel-Format or Edigas System User and TSO shall exchange identification codes, E-Mail addresses, detailed formats and fax numbers which shall be attended 24 hours a day. Fax shall be used as backup system until detailed formats are agreed and in case described electronic means of communication are inoperable.
2. TSO and System User shall provide each other with all information necessary for the fulfilment of their respective obligations under this Capacity Contract.
3. The addresses and references are reported in Attachment 1 ("Communication").
4. The language of communication shall be English.

## Attachment 1 to Annex 4

### Communication for Operational Services (dispatching activities)

**T S O :** Trans Austria Gasleitung GmbH

Wiedner Hauptstraße 120

A-1050 Vienna

Phone

+43-1-597 51 16

Telefax

+43-1-597 51 16 58030

E-Mail

tag@taggmbh.at

### Communication for Operational Services (Dispatching Activities)

#### **DISPATCHING :**

Phone

+43-1-597 51 16 - 58470

Telefax

+43-1-597 51 16 - 58479

E-Mail

commercial.dispatching@taggmbh.at

#### **SYSTEM USER :**

**NAME OF COMPANY**

[to be inserted]

Address/Street

[to be inserted]

ZIP code/City

[to be inserted]

Country

[to be inserted]

**GENERAL DISPATCHING**

Name

[to be inserted]

Phone

[to be inserted]

Telefax

[to be inserted]

E-Mail

[to be inserted]

**HEAD OF DEPARTMENT**

Name

[to be inserted]

Phone

[to be inserted]

Telefax

[to be inserted]

E-Mail

[to be inserted]

### Communication for Contract and Business

**T S O :** Trans Austria Gasleitung GmbH

Commercial Department / Francesco Menditti

Wiedner Hauptstrasse 120

A-1050 Vienna, Austria

Phone

+43-1-597 51 16 - 58015

Telefax

+43-1-597 51 16 - 58030

E-Mail

tag@taggmbh.at

#### **SYSTEM USER :**

**NAME OF COMPANY**

[to be inserted]

Address/Street

[to be inserted]

ZIP code/City

[to be inserted]

Country

[to be inserted]

**LEGAL OFFICE**

Address/Street [to be inserted]  
ZIP code/City [to be inserted]  
Country [to be inserted]

**BACK OFFICE**

Name [to be inserted]  
Phone [to be inserted]  
Telefax [to be inserted]  
E-Mail [to be inserted]

**HEAD OF DEPARTMENT**

Name [to be inserted]  
Phone [to be inserted]  
Telefax [to be inserted]  
E-Mail [to be inserted]

**Communication for Invoicing**

**T S O :** Trans Austria Gasleitung GmbH  
Commercial Department / Francesco Menditti

Wiedner Hauptstraße 120  
A-1050 Vienna

Phone +43-1-597 51 16-58015  
Telefax +43-1-597 51 16-58030  
E-Mail tag@taggmbh.at

**Invoices to be issued to:**

**NAME OF COMPANY** [to be inserted]  
Address/Street [to be inserted]  
ZIP Code/City [to be inserted]  
Country [to be inserted]  
VAT Number [to be inserted]

**BACK OFFICE**

Name [to be inserted]  
Phone [to be inserted]  
Telefax [to be inserted]  
E-Mail [to be inserted]

**HEAD OF DEPARTMENT**

Name [to be inserted]  
Phone [to be inserted]  
Telefax [to be inserted]  
E-Mail [to be inserted]

## **ANNEX 5**

### **Terms and Conditions for Balance Group Management**

Trans Austria Gasleitung GmbH (“TAG GmbH”) enables its System Users to allocate Entry and/or Exit capacity to balance groups or sub balance accounts by means of a Balance Group Management service available under TAG GmbH’s Commercial Services Area.

The offered Balance Group Management service has been implemented pursuant to the provisions of the Austrian Natural Gas Act 2011, the Other Market Rules (Sonstige Marktregeln, SoMa), the General Terms and Conditions for Transmission Network Access of TAG GmbH and the Capacity Contract stipulated between the System User and TAG GmbH.

#### **Prerequisites for the usage of capacities**

The conclusion of a Capacity Contract and compliance with the respective rules entitle the System User to allocate Entry and/or Exit capacity to a balance group or a sub balance account. The EIC code of the System User is needed for the allocation of capacity to a balance group or sub balance account. System User is responsible for verifying that the capacity gets allocated under the correct EIC code.

#### **Lead Times for capacity usage**

Capacities in a balance group or sub balance account can only be used if the following conditions for capacity usage are met.

For a capacity usage the following conditions must be met:

- The respective capacity is allocated to a balance group or sub balance account no later than 3 (three) full hours before the start of capacity usage.
- The respective capacity (direction) is already established in the respective balance group or sub balance account.
- The balance group or sub balance account has been active at this Entry/Exit Point before and established matching notifications (Shipper-Code-Pairs) have been used.
- If one of the above conditions is not met the capacity allocated to the balance group or sub balance account cannot be used by allocation until 3 (three) full hours before the start of the capacity usage.

For all other capacity usages the following lead times apply:

For the first creation in the system for allocation of new capacity to a balance group or sub balance account the respective capacity has to be allocated to the active balance group or sub balance account at least three (3) full working days before the begin of capacity usage.

Please note that national holidays in Austria are not considered as working days. Working day in the context of these Terms and Conditions refers to every day other than Saturday, Sunday, statutory holidays in Austria, 24 and 31 December.

Any reference to time shall be construed as to whatever official time in force in Austria (CET).

## **Liability**

TAG GmbH, including its employees, servants, representatives and agents, shall not be liable for any direct or indirect loss, including loss of profit, damage or cost arising out of or in connection with the use of the Balance Group Management Service, including reliance upon the information and material contained within said system. TAG GmbH gives no warranty for the Balance Group Management Service tools (e.g. server) being free of viruses or other dangerous elements and being available without interruptions or at all.

TAG GmbH reserves the right to update at its sole discretion at any time and without prior notice or liability any information. While TAG GmbH makes every effort to provide accurate and complete information, various data may change prior to updating. All information is given without warranty, expressed or implied, as to the accuracy, reliability or completeness of furnished data.

TAG GmbH cannot be held responsible for any damages occurring due to a mismatch with the interconnected transmission system operator based on the information submitted by System User in the Balance Group Management Service.

TAG GmbH assumes no liability for misprints, for the correctness and completeness of information and entries or for the mode of presentation and informs that System User is solely responsible for any decisions made on the basis of the information provided via Balance Group Management Service.

Applicant connects to the Balance Group Management Service at its costs and risk bearing in particular the costs of terminals, telephone and provider charges.