



# Frame Capacity Contract

Version 19.07.2024

**(FMCTXXXX)**

**between**

**TAG GmbH**

Wiedner Hauptstrasse 120  
1050 Vienna Austria  
("TSO")

**and**

**[System User Name]**

[Legal office address]

[Legal office ZIP code]

[Legal office country]

("System User")

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This Contract for Capacity Products (hereinafter referred to as “Frame Capacity Contract”) is made by and between TAG 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 “TSO”) and [System User Name], a company existing and incorporated under the laws of [Legal office country], having its legal office at [Legal office address/street], [Legal office ZIP code], [Legal office country] (hereinafter referred to as [System User Name]” or the “System User”).

TSO and [System User Name] 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 Transportation System and is willing to provide a natural gas transportation service to System User in accordance with the terms and conditions of this Frame Capacity Contract and in compliance with the General Terms and Conditions for Transmission Network Access of TAG GmbH as approved by the Austrian Regulatory Authority (hereinafter “E-Control”) according to section 32 of Austrian Gas Act (hereinafter the “GTC”).

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

This Frame 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 of the TAG Transportation System.

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

## **Subject matter**

This Frame Capacity Contract sets out the terms and conditions under which the Parties shall exercise their respective capacity rights and obligations at the Entry and Exit point of the TAG Transportation System.

## **Article 1 Definitions**

- 1.1 The definitions outlined in the Other Market Rules Gas Chapter 1 in its latest valid version shall apply to this Frame Capacity Contract. Except not explicitly defined in the Other Market Rules Chapter 1 the capitalised and uppercase terms defined in this Frame Capacity Contract shall be taken as reference.
- 1.2 Any reference to time shall be construed as whatever official time in force in Austria.

## **Article 2 Capacity**

- 2.1 This Frame Capacity Contract applies to capacity products offered and successfully allocated by TSO and booked by System User on the relevant used Capacity booking platform(s) as defined under Article 37 of the Commission Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems (hereinafter "NC CAM") in its latest valid version.
- 2.2 The respective "General Terms and Conditions for Use" of respective Capacity booking platform(s), in their respective latest valid version apply. Amongst other, the bindingness of capacity bids submitted by System User and the rules for capacity allocation to System User shall apply. The successful capacity bids and relevant capacity allocation are irrevocable, unconditional, unless the provisions of Article 30 of CAM should apply, and binding for the System User.
- 2.3 The capacity successfully allocated, after participation in a capacity auction and bindingly booked by the System User according to the electronically submitted auction results. or assigned, after confirmation of the validity of an assignment to System User by TSO, (hereinafter the "Contracted Capacity") can be nominated as specified in Article 4 upon fulfilment of the conditions outlined in Article 7.

## **Article 3 Transportation Service**

- 3.1 System User shall have the right to nominate quantities of Natural Gas within the limit of the Contracted Capacity and according to the provisions stated in Article 4 below.

- 3.2 TSO shall accept at an Entry point or deliver at an Exit point the quantities of Natural Gas nominated in accordance with the Other Market Rules in force and within the limit of the Contracted Capacity set forth in Article 2.3 above.
- 3.3 For whatever reason, if the Contracted Capacity on UK or FZK basis, is not entirely available for the Transportation Service, TSO shall use its reasonable efforts to minimize any reduction or interruption. The rules for interruptions or reductions of the Transportation Services described in Annex 3 apply.

#### **Article 4 Balance Group Nomination**

- 4.1 The Contracted Capacity may only be nominated after allocation to a Balance Group and/or a Sub-Balance Account by the Balance Responsible Party ("Bilanzgruppenverantwortlicher BGV") in accordance with the provisions of the Other Market Rules as last amended. The System User shall perform the allocation to a Balance Group in due time. The respective lead times and further details are published in the dedicated procedure on the TAG GmbH's website.
- 4.2 The System User has to ensure that an authorization by the Balance Responsible Party exists, in order to enable the allocation of Contracted Capacity to the appropriate Balance Group(s) or to a Sub-Balance Account and communicate this information to the TSO according to the rules of the Other Market Rules as last amended and further details published in the dedicated procedure on the TAG GmbH's website.
- 4.3 Should the Balance Responsible Party violate provisions of the market rules and therefore limitations to nominations are ordered or the authorization to nominate has been suspended, this shall not affect the validity of this Frame Capacity Contract and the payment obligation of the System User. If these capacity rights are assigned to another Balance Group or Sub-Balance Account of another Balance Responsible Party with a valid nomination authorization or the contractual conditions between Balance Responsible Party 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 Responsible Party on behalf of System User is obliged to notify TSO of any change of third-party delivering/off-taking with 3 (three) working days in advance. In the event that Balance Responsible Party 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.
- 4.6 The allocation shall take place in accordance with the confirmed nominations.

## Article 5 Fee

- 5.1 The System User shall pay to the TSO on a monthly basis the capacity-based “Em” and commodity-based “Cm” fee, if any, in Euros (EUR) for the services provided and based on the Contracted Capacity, calculated in accordance with the Gas System Charges Ordinance 2013 (Gas-Systemnutzungsentgelte-Verordnung 2013, hereinafter GSNE-VO 2013) in its latest valid version as approved by E-Control as follows:

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

where, for successfully booked standard yearly, quarterly and monthly capacity products:

$$E_{m1} = \left[ \left( \frac{SUC_{cap}[B/Aex/Aen]}{365} * D * K * 100 \right) * Q \right] / M / 100 \quad (\text{Rounded to integer in } \text{€})$$

$$E_{m2} = (AP * Q) / M / 100 \quad (\text{Rounded to integer in } \text{€})$$

**SUC<sub>cap</sub>:** Capacity based System Utilisation Charge for the respective Contracted Capacity pursuant to GSNE-VO 2013 in its latest valid version, in €/((kWh/h)/year

**D:** Runtime of the respective Contracted Capacity expressed in gas days

**K:** Level of the multiplier applicable to the respective Contracted Capacity pursuant to Section 3 par 9 GSNE-VO 2013, as last amended

**M:** Number of months of the respective Contracted Capacity

**AP:** Auction Premium (or Surcharge), expressed in ct €/((kWh/h)/Runtime

**Q:** Contracted Capacity (expressed in kWh/h)

**Runtime:** Duration for which the capacity was awarded

where, for successfully booked standard day-ahead and within-day capacity products:

$$E_{m1} = \sum_{h=1}^n \left[ \left( K * \frac{SUC_{cap} * 100}{365} \right) * \frac{Q_{b,h}}{24} \right] / 100 \quad (\text{Rounded to integer in } \text{€})$$

$$E_{m2} = \sum_{h=1}^n \left[ \frac{AP * Q_{b,h}}{Runtime} \right] / 100 \quad (\text{Rounded to integer in } \text{€})$$

**SUC<sub>cap</sub>:** Capacity based System Utilisation Charge for the respective Contracted Capacity pursuant to GSNE-VO 2013 as last amended), in €/((kWh/h)/year

**K:** Level of the multiplier applicable to the respective Contracted Capacity pursuant to Section 3 par 9 GSNE-VO 2013, as last amended

**Q<sub>b,h</sub>:** Booked Flow Rate (expressed in kWh/h) of the respective Contracted Capacity

**AP:** Auction Premium (or Surcharge) expressed in ct €/((kWh/h)/Runtime

**n:** Total number of hours of effective Transportation Service in a respective month

**Runtime:** Hours for which the capacity was awarded for a duration between 1 (one) and 24 (twenty-four) hours (both included), expressed in full hours (n)

$$C_m = V * SUC_{com}$$

Where:

**SUC<sub>com</sub>** Commodity-based System Utilisation Charge for the usage of the respective Contracted Capacity pursuant to Gas System Charges Ordinance in its latest valid version, in €/MWh, for the respective Entry or Exit Point.

**V:** Usage of the respective Contracted Capacity pursuant to GSNE-VO 2013 and Gas Market Model Ordinance, in MWh, for the respective Entry and Exit Point.

In compliance with Article IX (5) of the GTCs, any auction premium ("Surcharges") due by the System User remains valid to the full extent and shall be further paid for the term of the Contracted Capacity by the System User to the TSO, regardless of possible transactions via surrender and/or unbundled capacity conversion mechanisms.

- 5.2 In case of reductions of transportation services for Contracted Capacity on FZK basis due to unplanned maintenance, respective reductions of the Fee will be granted according to Section 3 par 10 GSNE-VO 2013 pursuant to the formula defined in Annex 2 GSNE – VO 2013, as last amended.
- 5.3 In case of interruptions of transportation services for Contracted Capacity on UK basis, and if not otherwise stipulated in the last amended version of the GSNE – VO 2013, reductions of the Fee will be granted according to Section 3 par 7 pursuant of GSNE -VO 2013. The compensation factor "rf" within the framework of this Frame Capacity Contract is applied pursuant the relevant formula available in Annex 1 of the last amended version of GSNE – VO 2013.
- 5.4 For Contracted Capacity on the basis of day-ahead and within-day products, and if not otherwise stipulated in the GSNE – VO 2013, the calculation of the reduction of the Fee according to the formulas defined in the Annex 1 and 2 of the GSNE-VO 2013, as last amended, will be performed independently for each concerned product and on a daily basis.
- 5.5 TSO will apply the reduction of the Fee as specified above only under the condition that the Balance Responsible Party 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, as last amended.

## **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 GTC in force.
- 6.2      TSO shall make available the monthly invoices related to this Frame Capacity Contract only in electronical form on a dedicated web application accessible by the System User. System User shall ensure at any time that the respective contact details are updated in the dedicated web application.

## **Article 7      Securities and Ratings**

- 7.1      System User shall provide a security deposit in form of a Bank Guarantee or Cash Deposit according to Section IV of the GTC or a Parent Company Guarantee.
- 7.2      In case System User's Contracted Capacity includes more than one quarterly respectively yearly capacity product at a given Entry or Exit Point, the total amount of security deposit to be provided for this Entry or Exit Point is collateralized and is limited to the security deposit to be provided for the highest (determined based on the monthly fee) quarterly respectively yearly capacity product at this Entry or Exit Point, in accordance with Article IV (5) of the GTC.
- 7.3      Notwithstanding Section IV (7) and (8) of the GTC, System User shall provide the security deposit in form of a Bank Guarantee, Parent Company Guarantee or Cash Deposit not later than 5 working days before the start of transportation of the Contracted Capacity.
- 7.4      In case that System User provides a security deposit in the form of a Bank Guarantee according to Section IV (3) and (5) of the GTC, such Bank Guarantee on first demand shall be issued by an internationally reputed bank (the "Issuing Bank"), whose long term rating has to comply with at least the minimum rating of the Issuing bank for Bank Guarantee as published in the dedicated procedure on the TAG GmbH's website.
- 7.5      In case the System User provides a Parent Company Guarantee, in which the credit rating of the Parent Company is equal or higher than the minimum Parent Company



Guarantee rating as published in the dedicated procedure on the TAG GmbH's website, Article IV (3) and (5) of the GTC shall not apply. The TSO shall verify and approve in writing the Rating of the Parent Company.

- 7.6 In case of provision of any security deposit according to Article 7.1, System User shall be entitled to allocate a quota of the total provided security amount to each bookable standard product. This allocation shall be compliant with the requirements of the GTC.
- 7.7 In case the System User has a credit rating equal or higher than the Minimum System User Rating published in the dedicated procedure on the TAG GmbH's website, Article IV (3) and (5) of the GTC shall not apply. The TSO shall verify and confirm the Minimum System User rating.
- 7.8 In the event System User – who previously was not obliged to provide a security deposit according to Article 7.6 – ceases to comply with the minimum requirements as specified in the dedicated procedure on the TAG GmbH's website the System User has to provide a security deposit in accordance with Article 7.1, 7.4 and 7.5 above promptly thereafter and at the latest within the due time for provision of security deposit published in the dedicated procedure on the TAG GmbH's website without being requested to do so by TSO. If System User does not comply with this requirement, TSO shall be entitled to terminate the Frame Capacity Contract with immediate effect without prejudice to any other remedy at law available.
- 7.9 In the event System User – who previously was obliged to provide a security deposit – turns to comply with the conditions laid down in Article 7.7, without prejudice to 7.8 above, TSO upon written request by System User shall return to System User the security deposit promptly thereafter and in any case within the due time for restitution of security deposit in case of change of the Minimum System User rating published in the dedicated procedure on the TAG GmbH's website from such a request of System User.
- 7.10 In case of revocation of the Bank Guarantee/Parent Company Guarantee, the System User has to ensure that the TSO is informed in writing at least 4 months before the termination date specified in the letter. In case a Bank Guarantee/Parent Company Guarantee has been revoked, System User shall provide to the TSO an equivalent financial security not later than 30 working days before expiration of the revoked Bank Guarantee/ Parent Company Guarantee unless all duties, liabilities and obligations of System User under the Frame Capacity Contract have been finally and definitively discharged in full by the termination date specified in the letter. Should Shipper fail to pay TAG within the above deadline, TAG shall be entitled to enforce the Bank Guarantee and in addition at the discretion of TAG to terminate the Capacity Contract with immediate effect without prejudice to any other remedy at law available.

- 7.11 In case a Guarantor's (Bank or Parent Company) rating ceases to comply with the minimum requirements as specified in the dedicated procedure on the TAG GmbH's website the System User has to provide a security deposit in accordance with Article 7.1 and 7.4 above promptly thereafter and at the latest within the due time for provision of security deposit published in the dedicated procedure on the TAG GmbH's website without being requested to do so by TSO. If System User does not comply with this requirement, TSO shall be entitled to terminate the Frame Capacity Contract with immediate effect without prejudice to any other remedy at law available.

## **Article 8 Ineffective Provisions**

- 8.1 If any of the provisions of this Frame Capacity Contract, including any part of the GTC 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**

- 9.1 Without prejudice to Section 38 of the Austrian Gas Act 2011 as last amended, 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) if the assignee has not provided a security deposit according to the provisions outlined in Section IV (5) of GTC.
- 9.2 The System User agrees automatically with the final confirmation of the Assignment by TSO that, as of the effective date of such assignment to the assignee, the Contracted Capacity is amended accordingly to reflect the assignment. In addition, the System User shall be entitled to request an amendment of the amount of its security deposit under consideration of the amended Contracted Capacity according to Article 7 starting from the effective date of the assignment until the end date.

In case TSO accepts an amendment of a Bank Guarantee or Parent Company Guarantee with regard to the maximum guaranteed amount, TSO will retain both, the amendment and the respective original Bank Guarantee or Parent Company Guarantee.

In case of a bank guarantee or parent company guarantee replacement TSO shall return the former bank guarantee or parent company guarantee earliest after the new security deposit has been received and accepted by TSO in accordance with Section IV(7), IV(8) the GTC as last amended.

## **Article 10      Term of Contract and Termination**

- 10.1 This Frame Capacity Contract shall come into force upon signing by both Parties.
- 10.2 Any modification and/or amendment to this Frame Capacity Contract shall be notified by the TSO to the System User in due time and by written notice.
- 10.3 After the expiry of a period of four (4) weeks from the written notice, the modification and/or amendment shall become automatically effective together with the respective capacity products either already booked/assigned or booked/assigned afterwards.
- 10.4 In case of objection within the abovementioned period by the System User, the Frame Capacity Contract shall remain in force and effect with regard only to the capacity products already contracted and until the expiration of such contracted capacity products.
- 10.5 Further booking/assignment of capacity products executed by the System User after the 4-week-objection period, shall be automatically subject to the provisions of the modified and/or amended Frame Capacity Contract.
- 10.6 Both parties have the right to terminate this Frame Capacity Contract as set out in the GTC. In addition, the System User has the right to terminate this Frame Capacity Contract under the condition that no Contracted Capacity products or unpaid invoices are in place. Such termination by the System User shall be notified by the System User to the TSO in writing and with a lead time of at least ten-days (10) from receipt of the written notice by TSO. The termination fails to apply in case, during the lead time period, the System User acquires further capacity products in accordance with Article 2 of this Frame Capacity Contract or by way of an assignment as described in Article 9. In such event it is deemed that the System User revoked its notice of termination.
- 10.7 This Frame Capacity Contract is set up electronically and shall be signed by the contracting parties either (a) in two (2) original copies, with each of the contracting parties receiving one (1) original copy or (b) by means of a certified digital signature.

## **Article 11     Miscellaneous**

- 11.1 This Frame 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 Frame 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 Frame 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.
- 11.2 The Other Market Rules Gas (Chapter 1 to 4) as last amended issued by E-Control and as amended from time to time constitute an integral part of this Frame Capacity Contract.

## **Article 12     Applicable Law and Arbitration**

12.1 Any dispute arising between or claim of the Parties under this Frame 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.

## **Article 13     Annexes**

13.1 The Annexes hereto constitute integral part of this Frame Capacity Contract. The System User has taken note of these Annexes in full and accepts them herewith.

13.2 In the event of any conflict between this Frame Capacity Contract and the Annexes (with exclusion of Annex 1 "General Terms and Conditions"), this Frame Capacity Contract shall prevail.

**Annex 1:**     General Terms and Conditions for Transmission Network Access

**Annex 2:**     Quality specification

**Annex 3:**     Description of types of capacity and interruption rules

**IN WITNESS WHEREOF, this Frame Capacity Contract has been duly executed in two (2) original copies as of the date set forth below.**

**TAG GmbH**

**System User Name**

**Date:**

**Date:**

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

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