

CAPACITY BOOKING CONTRACT CONCLUDED WITHIN BINDING PHASE 3 OF THE OPEN SEASON PROCEDURE FOR PROJECT FOR DEVELOPMENT AND EXPANSION OF BULGARTRANGAZ EAD GAS TRANSMISSION SYSTEM

No ..... / ..... date

(hereinafter - the Capacity Booking Contract, the Contract)

made by and between

".....", with headquarters and management address: ....., with UIC ....., VAT No:....., represented by ..... – Manager / Executive Director (hereinafter - the User)

and

BULGARTRANGAZ EAD, with headquarters and management address, Sofia 1336, 66 Pancho Vladigerov Blvd., registered under file No 16439/2006 on the inventory of Sofia City Court, UIC 175203478 and Identification number under VAT Act BG175203478, represented by Vladimir Malinov - Executive Director (hereinafter - the Operator or Bulgartransgaz EAD)

together hereinafter - the Parties,

## 1. Definitions

Definitions used in the GTC and in the Rules as defined below shall be used in this Contract unless it provides otherwise.

"Booking Price" shall mean the access price in amount of the Final price to be paid by the User to the Operator subject to terms and conditions of this Contract. Initially the Booking Price is equal to the Reference price;

"Best Efforts" shall mean taking all steps and available measures in good faith to achieve the objective, to carry the process to its logical conclusion, and includes doing everything known to the Operator to be reasonable and necessary for ensuring the success of the effort;

"General Terms and Conditions for Transportation or GTC" shall mean Annex 2 to harmonized contract for natural gas access and transportation through the gas transmission network of Bulgartransgaz EAD in a version valid and published on Bulgartransgaz EAD website as of the start date of Phase 3 of the Open Season Procedure;

"Rules" shall mean the Open Season Phase 3 Binding Rules for the Project for development and expansion of Bulgartransgaz EAD gas transmission system approved by the National Regulatory Authority of the Republic of Bulgaria - the Energy and Water Regulatory Commission by Decision No ..... dated .....

"Scheduled Maintenance" shall mean any maintenance works to be carried out by the Operator during each calendar year, schedule of which is set by the Operator in advance of each

calendar year taking into account to the extent possible positions of network users and provided that aggregate period of such maintenance works does not exceed 14 (fourteen) days within each calendar year. While setting the schedule of the Scheduled Maintenance the Operator shall also determine corresponding technical regimes for natural gas transportation during these periods.

## 2. Subject matter of the Contract

2.1. During the term of the Contract, Bulgartransgaz EAD shall provide to the User the Firm capacities, in amount, by years and for the IPs, as specified in Table 1 below (hereinafter – the Booked Capacity).

2.2. Subject to the terms and conditions of this Contract, the User shall pay to the Operator the Booking Price for the Booked Capacity on the “ship-or-pay” basis regardless of whether or not it actually uses the Booked Capacity for the transportation of natural gas provided that the Operator has provided User the possibility to use the Booked Capacity.

2.3. The Booked Capacities according to Table 1 below have been allocated to the User in accordance with results of the binding Phase 3 of the Open Season Procedure pursuant to the Rules.

2.4. The subject matter of this Contract includes the booking and provision of the Booked Capacity as specified in Table 1 below and corresponding transportation services.

2.5. The Parties also acknowledge that Bulgartransgaz EAD bases the developments necessary for realisation of the capacities to be made available through its gas transmission network, on the capacity booking contracts concluded with the network users, and therefore the termination of any of these contracts, including this Contract, might result in significant losses, costs and damages to Bulgartransgaz EAD, therefore financial securities in accordance with this Contract might be requested by Bulgartransgaz EAD.

2.6. In light of the foregoing, the Parties concluded this Contract for the following long-term Firm capacity of the Project for the following period of provision of the transportation services (hereinafter – the Performance Period) based on the Procedure (by gas years):

Table 1

Performance Period	IP Strandzha 2/Malkoclar (Turkey>Bulgaria) EIC code: .....	
	Booked entry capacity kWh/d/y	Booking Price BGN/MWh/d/y
Gas year 2019/2020 (01.01.2020-01.10.2020)		
Gas year 2020/2021		
Gas year 2021/2022		
Gas year 2022/2023		
Gas year 2023/2024		
Gas year 2024/2025		
Gas year 2025/2026		

Gas year 2026/2027		
Gas year 2027/2028		
Gas year 2028/2029		
Gas year 2029/2030		
Gas year 2030/2031		
Gas year 2031/2032		
Gas year 2032/2033		
Gas year 2033/2034		
Gas year 2034/2035		
Gas year 2035/2036		
Gas year 2036/2037		
Gas year 2037/2038		
Gas year 2038/2039		
Performance Period	IP Kirevo/Zaychar (Bulgaria>Serbia) EIC code: .....	
	Booked exit capacity kWh/d/y	Booking Price BGN/MWh/d/y
Gas year 2019/2020 (01.01.2020-01.10.2020)		
Gas year 2020/2021		
Gas year 2021/2022		
Gas year 2022/2023		
Gas year 2023/2024		
Gas year 2024/2025		
Gas year 2025/2026		
Gas year 2026/2027		
Gas year 2027/2028		
Gas year 2028/2029		
Gas year 2029/2030		
Gas year 2030/2031		
Gas year 2031/2032		
Gas year 2032/2033		
Gas year 2033/2034		
Gas year 2034/2035		
Gas year 2035/2036		
Gas year 2036/2037		
Gas year 2037/2038		
Gas year 2038/2039		

2.7. The GTC and the Rules shall be applicable to relationships of the Parties subject to provisions of this Contract during the whole term of the Contract and shall form an integral part of the Contract (in Annex 1 and Annex 2 hereto). In case of any discrepancy between the

documents the following priority shall apply: the Contract (first priority), then the Rules, then the GTC.

2.8. The Booked Capacity does not exist at the date of this Contract.

2.9. Bulgartransgaz EAD shall use its Best Efforts to ensure that the Booked Capacity allocated to the User shall be made available by the beginning of the Performance Period.

2.10. Bulgartransgaz EAD shall use its Best Efforts to coordinate the commissioning of the infrastructure for the Booked Capacity with the upstream and downstream network operators at IPs.

2.11. If at the start of the Performance Period transport capacities upstream and/or downstream of the IPs are not available but the Booked Capacity is available in full or in part for actual usage by the User, the User is obliged to pay for such amount of the Booked Capacity actually made available for usage in accordance with this Contract.

2.12. Subject to Articles 2.9 and 2.10 of this Contract if Bulgartransgaz EAD fails to make available to the User the whole or part of the Booked Capacity in case of delay in the commissioning of new infrastructure related to the Project, the fact that the whole or any part of the Booked Capacity is not made available due to such delay in the commissioning shall not be considered as a breach of this Contract and shall not trigger obligations for Bulgartransgaz EAD to pay compensations.

2.13. Subject to Article 2.11 above the User shall pay only for the actually provided Booked Capacity for actual usage.

2.14. Without prejudice to Article 2.12 above, in case at any time of the Performance Period the Operator fails to provide part or all of the Booked Capacity at entry or exit IP (except unavailability due to the Scheduled Maintenance), then the User shall be entitled to reject using part of the Booked Capacity available at entry or exit IP corresponding to the amount of the Booked Capacity not made available at entry or exit IP for the unsecured period by sending corresponding notification to the Operator within reasonable timeframe.

In this case, the User shall not be obliged to pay for the Booked Capacity made available but unused, and the Operator has the right to provide this unused Booked capacity on a capacity booking platform.

2.15. If in the course of network expansion that falls under responsibility of Bulgartransgaz EAD it turns out that the incremental transmission capacities at the IPs cannot be created by the beginning of the Performance Period, Bulgartransgaz EAD shall notify the User immediately and inform it whether and when start of the Performance Period can be expected.

2.16. The User shall be entitled to terminate the Contract until 1 April 2019 with immediate effect (hereinafter – the Special Right of Termination) without any penalties and compensation. For avoidance of doubts, the User is entitled to waive its Special Right of Termination with immediate effect by notifying Bulgartransgaz EAD in writing any time within effective period of the Special Right of Termination.

2.17. This Contract enters into force after signing by both Parties and shall be valid for the whole Performance Period and for the Booked Capacity indicated capacity quantities by years.

2.18. The minimum delivery pressure at the entry IP to be provided by the User shall be 45 barg.

2.19. The User can become the Balancing user only upon its written consent.

### 3. Prices for access and transport

3.1. The User shall pay to the Operator for provision of the Booked Capacity and corresponding transportation services in accordance with the following provisions:

3.1.1. Booking Price – price payable for the right to use the gas transmission system at the IPs. The Booking Price shall be fixed for the whole duration of the Contract and shall be indexed for each year after the first one by an inflation rate, officially published by the National Statistical Institute of the Republic of Bulgaria.

3.1.2. If at any time the Booked Capacity at any IP becomes fully or partially unavailable in a certain gas year (except unavailability due to the Scheduled Maintenance), corresponding payment for the Booked Capacity shall be decreased proportionally to the amount of such unavailable Booked Capacity.

3.2. The Final Price defined by the Rules shall be valid for the first gas year of the Contract. For each subsequent gas year, by September, 20 of the previous year the Operator shall determine the applicable Booking Price by indexing the current Booking Price with an inflation index equal to the customer prices index for a period of 12 months, beginning on September 1 of the previous calendar year and ending on August, 31 of the current calendar year officially published by the National Statistical Institute of the Republic of Bulgaria.

3.3. Transportation Price shall be determined in accordance with the Rules.

3.4. For each gas year, the User can change the way of the Variable Technological Costs compensation (by supply of natural gas in kind or by payment of the Transportation Price).

3.5. In order to change the method of compensation of the Variable Technological Costs from payment of the Transportation Price to supply of natural gas in kind or vice versa for the next gas year the User shall submit an application form to the Operator by March, 31 of the current gas year.

### 4. Financial security

4.1. In order to secure the Contract performance, if Article 4.5 hereof is not applicable, the Operator requests the User to provide financial security to Bulgartransgaz EAD, in accordance with the terms and conditions stipulated below.

In such case the User should maintain the financial security continuously during the term of this Contract. The financial security should be maintained up to 90 days after expiry of this Contract. If the security provided by the User does not cover the full duration of the Contract, the User should, without special notice by the Operator, extend it at the latest until the 30th day before expiry of the current financial security.

4.2. The financial security for the capacities booked for the period from one year to three years should cover the annual payment for the Booked Capacity for the upcoming gas year in accordance with Table 1 of the Contract and applicable Booking Price.

The financial security for the capacities booked for the period of more than three years should cover the three times the highest annual payment for the Booked Capacity for the upcoming three gas years in accordance with Table 1 of the Contract and applicable Booking Price.

4.3. The User, if required by the Operator, shall submit the financial security in one of the following forms:

1. Cash deposit in EUR to a bank account:

Unicredit Bulbank AD

Address: 7 Sveta Nedelya Sq., 1000 Sofia

IBAN: BG52UNCR76301078435701

SWIFT: UNCRBGSF

Subject: Providing a financial security upon Contract conclusion;

2. Bank guarantee

A Bank Guarantee Standard Form (Annex 3).

3. Corporate guarantee:

A Corporate Guarantee Standard Form (Annex 4) or in a form agreed with the Operator.

4.4. The Corporate guarantee should be issued by a legal entity with minimum credit rating "investment grade" from Standard & Poor's, Moody's, Fitch or Creditreform. The guarantee should be accompanied by a certificate for credit rating of the legal entity guarantor and a special decision of the guarantor Management board for issuing the guarantee.

4.5. If the User meets any of the following criteria:

a) credit rating of:

- a Standard & Poor's long-term rating of BBB- or better, or
- a Fitch rating of BBB- or better, or
- a Moody's long-term rating of Baa3 or better,
- 235 points or less according to Creditreform (credit index score 2.0)

or the User is 100% owned by company (ies) which satisfy the above listed condition, the User is not obliged to provide any of the abovementioned financial securities (hereinafter – the Rating Exemption).

4.6. The financial security under Article 4.2. is used to secure all payments under this Contract. If the User fails to fulfil his obligation to pay (partially or fully) within the terms specified in this Contract, Bulgartransgaz EAD shall be entitled to use the security provided by the User up to the amount of the outstanding liability and such used amount of the security shall be renewed by the

User within 7 (seven) days after receipt of a notice from the Operator confirming relevant use of the security.

4.7. Bulgartransgaz EAD at any time shall have a right at its sole discretion to request the User falling under the Rating Exemption to provide financial security and such User is obliged to provide the financial security in 30 (thirty) business days (form of the financial security can be selected by the User at its discretion).

## 5. Communication and data management

5.1. The Parties agree that regarding all matters of this Contract implementation, the following contact persons shall be referred to:

On behalf of the User	On behalf of Bulgartransgaz EAD
1. Name:	1. Name:
Phone:	Phone:
Fax:	Fax:
Mobile:	Mobile:
E-mail:	E-mail:
2. Name:	2. Name:
Phone:	Phone:
Fax:	Fax:
Mobile:	Mobile:
E-mail:	E-mail:

5.2. The Parties shall immediately notify each other of any changes to the above contact information.

5.3. Communication between the Parties related to matters connected with this Contract shall be made in English. Communication between the Parties shall primarily be transmitted by e-mail. Notifications that have or may have a material impact on the rights and duties of the Parties shall be made by e-mail and by registered mail or by courier, whereas delivery by mail or courier is conclusive. This provision is subject, in particular, to Article 14.3 below.

## 6. Invoicing and payment

6.1. Not later than the 5<sup>th</sup> day of the month following the month of provision of transportation services under this Contract, the Operator shall issue and submit to the User an invoice comprising of the value of the services for long-term Firm capacity provision during the previous month.

6.2. The monthly invoice shall consist of:

6.2.1. the value of the Booked Capacity calculated as 1/12 of the sum of all Booked Capacity for each IP for the current gas year according to Table 1 multiplied by the applicable Booking Price, adjusted in accordance with the provisions of this Contract, if applicable.

6.2.2. value of the Transportation Price multiplied by the amount of actually allocated quantities to the User at all IPs for the previous month, which is subject to compensation of the Variable Technological Costs by the User in monetary form.

6.3. The User shall be entitled to contest the full invoiced amount or part of it, also based on contesting the Monthly report, or provide further evidence accepted by the Operator, that impose change in the invoices and shall be obliged to pay the full amount of the invoices valid on the date of maturity of their payment, regardless of contestation.

6.4. The Operator shall reimburse any overpayments proved by the User and/or incurred as a result of mistake, and the User also shall compensate any underpayments incurred as a result of errors mistakes, within 5 (five) days of finding out the mistake/accepting the evidence.

6.5. No amounts of issued invoices can be corrected by the Operator consequently to a challenge registered after the expiry of a 12 (twelve) month term as of the date of issuance of the invoice without prejudice to the right of the User to refer the dispute to litigation in accordance with Article 9 of this Contract.

6.6. The Operator shall send the invoices by courier service and by e-mail to the address and e-mail indicated in the Contract.

6.7. The User shall pay the amounts under the invoices by the 25<sup>th</sup> (twenty-fifth) day of the month of issuance after their receipt in the e-mail specified by the User in the Contract.

6.8. The payment of the invoice may be effected in Euro. The conversion of the due amount expressed in BGN into Euro shall be carried out by applying the mean of exchange rate (BGN/EUR) provided by Bulgarian National Bank for the last day of the month of which transportations services is provided.

6.9. If, within the term specified in Article 6.7, the User does not pay the amounts due, the same shall owe to the Operator penalty amounting to the legal interest equal to rate of 6 (six) mounts EUROLIBOR + 4% (four percent) on the outstanding amount at the specified term, for the entire period of delay, including the date of final payment.

6.10. In the event of User's second consequent delay (for 30 (thirty) days or more) in payment the amount due hereunder, within 30 (thirty) days as of the date on which it had to pay, after submitting to the User via e-mail a five-day notice, the Operator shall be entitled to utilize the provided financial security under Article 4.2. up to the amount due together with the due delay penalty.

6.11. In case of transfer of annual capacity products, effective as of the transfer date, between two users on the secondary market, the payment obligations of the monthly invoices for the products, subject to transfer, shall be transferred to the user who has acquired the capacity product as of the start of the month, following the transfer date.

## 7. Liability

7.1. Each Party shall be liable to the other Party for any damage it causes by the breach of its obligations arising out of this Contract or in connection with it.



7.2. Lost profit and indirect or consequential damages are excluded from the scope of damage to be compensated in case of breach of this Contract by either Party, provided that such exclusion shall not apply to any losses in the form of discounts, damages or penalties incurred by either Party under agreements with third parties.

7.3. The Parties agree that submission of appeals, if any, against the public procurements for design, supply and construction and installation works of the new infrastructure, as such, shall not be considered as a breach by the Operator of its obligations under Articles 2.9 and 2.10.

7.4. Any obligation of either Party shall be temporarily suspended during the period in which it is unable to perform such obligation by reason of Force Majeure, but only to the extent of such inability to perform. The term "Force Majeure" means circumstances not reasonably foreseen by, unable to be avoided by and beyond the control of the Party, including but not limited to the following:

- (a) extraordinary forces of nature: floods, earthquakes, landslides, fires, explosions and other unavoidable accidents,
- (b) strikes, boycotts, lockouts, sabotage and military operations.

A Force Majeure event does not include any act of public authorities of the country where the Party is incorporated or the country where the Party has its registered seat, or lack thereof.

Following the occurrence of any circumstances of Force Majeure, the affected Party shall notify the other Party of the occurrence and the expected extent and duration of such circumstances and take all economically reasonable measures, which may be useful to ensure the resumption of the normal performance of the Contract within the shortest possible time.

The termination of the Contract due to Force Majeure circumstances shall take place only by mutual consent of the Parties.

7.5. Liability of Bulgartransgaz EAD before the date of commercial operation of the Project is subject to Article 2.12 above.

7.6. The Parties shall promptly notify each other of any important circumstance related to performance of the Contract.

## 8. Term, entry into force and termination of the Contract

8.1. The Contract shall enter into force on the day of its signing by the both Parties and shall be valid by the end of the last gas year of the Performance Period.

8.2. Without prejudice to Article 2.16 hereof, the Contract cannot be terminated unilaterally by either Party except in cases of liquidation or insolvency of other Party confirmed by the documents due and valid in accordance with the legislation applicable in country of incorporation.

## 9. Dispute settlement

9.1. The Parties shall use their best endeavours to settle by mutual consent any disputes arising out or related to this Contract. The Parties agree that if their obligation for negotiation, as set out in this Article 9, produces no result within 3 (three) months from its proven date of initiation, then

each Party may refer the dispute the competent Bulgarian court with powers under the Civil Procedure Code.

## 10. Contract assignment

10.1. The User shall have the right to request Bulgartransgaz EAD consent for assignment of this Contract to any third party and Bulgartransgaz EAD cannot refuse to give its consent if the third party wishing to take over the Contract complies with all relevant legal provisions and requirements, specified by Bulgartransgaz EAD for its users, as stipulated in this Contract, the Rules and the GTC.

10.2. The Parties and the third party wishing to take over the Contract shall conclude a separate tripartite agreement on the assignment of the Contract, including all matters concerning settlement of the financial securities.

## 11. Capacity assignment

11.1. The User shall have the right to partially or fully assign its Booked Capacity to any third party subject to such third party's compliance with relevant provisions and requirements, stipulated in this Contract, the Rules and the GTC.

11.2. The Parties and the third party wishing to take over the Booked Capacity in full or in part shall conclude a separate tripartite agreement on the assignment of such Booked Capacity, including all matters concerning settlement of the financial securities.

## 12. Secondary capacity transactions

12.1. The User shall be entitled at any time to partially or fully transfer the Booked Capacity to any third party without consent from the Operator provided that the User shall continue to perform its rights and obligations vis-a-vis the Operator under the Contract in full.

12.2. The secondary capacity transfer shall be made under a bilateral contract between the User and the third party. Such parties of the secondary capacity transfer shall duly notify the Operator about transfer of the Booked Capacity and the Operator is obliged to approve the transfer within 3 business days of notification, following a verification procedure establishing that the third party has concluded all necessary agreements, if any, with the Operator to be able to use transferred Booked Capacity and availability at the Users portfolio of the required Booked Capacities available for such transfer.

12.3. The terms and conditions for the Booked Capacity's transfer between the User and the third party, including the transfer price, is not subject to Operator's review or approval. It is regulated under the relevant contract signed between the User and the third party that cannot impose obligations to the Operator beyond fulfilment of this Contract conditions.

## 13. Annexes

The following additional documents shall constitute integral parts of this Contract:

1. The General terms and conditions for transportation;
2. The Rules;
3. Bank Guarantee Form;
4. Corporate Guarantee Form;

#### 14. Miscellaneous

14.1. Changes in the details of the Parties, registered in the corporate registers or indicated herein, related to the registered addresses, representatives, bank accounts, as well as changes in the ownership structure during signing and implementation of this Contract, and the contract details shall not be considered amendments hereof.

14.2. The respective Party under this Contract shall inform the other Party on any changes in data under Article 14.1. in writing or in advance with a 10-day notice, or 10 days after occurrence of the change depending on the specific circumstances.

14.3. Any change to this Contract may only be made by means of a written amendment (whereas e-mail communication is not regarded as constituting the written form) designated as such and signed by both Parties.

14.4. In order to ensure security of transportation and due performance of the Parties' obligations under this Contract Bulgartransgaz EAD, in cooperation with the User and other parties concerned, shall as of the moment of start of commercial operation of the Project, ensure that all technical rules and regulations which are applicable or might be applicable to this Contract (including but not limited by Natural Gas Market Balancing Rules, Rules for Management and Technical Rules for the Gas Transmission Network, Technical specification etc.) reflect the provisions of the interconnection agreements between Bulgartransgaz EAD and neighboring TSOs.

14.5. In the light of the above, the Parties agree that the following provisions of the GTC shall not apply:

- a) Articles 2.1, 3.1, 7, 8, 10.2, 10.3, 13, 15, 18;
- e) the provisions related to short-term products and interruptible products;
- f) the provisions related to the capacity Regional booking platform (RBP).

14.6. Subject to other terms and conditions of this Contract, the Operator shall be entitled to stop or limit natural gas transportation within the Booked capacities in case of the Scheduled maintenance, Emergency works or Force majeure. For the purpose of this Contract the definition "Emergency works" shall mean urgent actions to be performed by the Operator, always acting as prudent and reasonable operator, in order to secure safety and integrity of the gas transportation network of the Operator and to avoid threat to life, health or property of people.

14.7. In case if after the date of entry into force of this Contract any change in applicable legislation which affect or might affect this Contract and GTC, the Parties undertake, subject to

mutual agreement, to amend the Contract in order to ensure due performance of mutual obligations and compliance with applicable legislation.

14.8. The Rules cannot be amended by the Parties.

14.9. In case at any time of the Performance Period any Party wishes to introduce certain amendments to the Contract or to the GTC, the Parties undertake, subject to mutual agreement, to amend the Contract and/or the GTC in order to reflect such requested amendments.

15. Number of copies of the Contract

This Contract is signed in English language in 2 (two) originals of equal force; 1 (one) for each Party.

FOR THE OPERATOR:

FOR THE USER:

VLADIMIR MALINOV  
Executive Director