

**CONTE spol. S.r.o.**

Ms. Martin Stepan  
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11000 Prague  
CZ

21 February 2017

**Frame Capacity Contract**

**OCB® - Ref.: AUC\_FRAME\_170206\_991231\_96705**

Dear Mr. Stepan,

Please find enclosed the original of the above mentioned contract duly signed by Gas Connect Austria GmbH at your disposal.

Best regards,



Martin Bliem

**Gas Connect Austria GmbH**

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[www.gasconnect.at](http://www.gasconnect.at)

## Frame Capacity Contract

OCB® - Reference: AUC\_FRAME\_170206\_991231\_96705

entered into by and between

**Gas Connect Austria GmbH**  
Floridotower, Floridsdorfer Hauptstrasse 1  
A-1210 Vienna  
("Gas Connect Austria") MB

and

**CONTE spol. s.r.o.**  
Ovocny trh 1096/8  
11000 Prague  
CZ  
("System User")

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## **Article 1: Subject matter**

This Contract ("Frame Capacity Contract") sets out the terms and conditions on which the System User can exercise its capacity rights in the Eastern Market Area.

Capacities on a firm basis are available as freely allocable capacities ("FZK") or dynamically allocable capacities ("DZK"). Capacities on an interruptible basis are available as interruptible capacities ("UK").

## **Article 2: Description of types of capacity**

- FZK shall allow the injection at the entry point and the withdrawal at the exit point on a firm basis. This means access to the virtual trading point shall be guaranteed.
- DZK shall allow the injection on a firm basis from the entry point with the corresponding withdrawal at the allocated exit points ("allocation constraint") and the withdrawal at the exit point with the corresponding injection at the allocated entry points ("allocation constraint"). Injection at an entry point without the corresponding withdrawal at the allocated exit points or a withdrawal at the exit point without the corresponding injection at the allocated entry points shall be available on an interruptible basis. Gas Connect Austria shall have the right to interrupt the transportation service wholly or partially, if the quantity of the nomination at the allocated points does not correspond, or corresponds only partially, to the DZK share of the nomination at the entry/exit point. Thus, access to the virtual trading point shall be interruptible. The firm DZK share (DZKg) shall be either the DZK share or the nomination of the allocation constraint, whichever is smaller. The interruptible DZK share (DZKu) shall be the difference between the DZK share and DZKg.
- UK shall allow the injection at the entry point and the withdrawal at the exit point on an interruptible basis. Gas Connect Austria shall have the right to interrupt the transportation service, in whole or in part. In such a case, the contractually agreed hourly flow rate shall be made available to the balance group responsible over a certain period of time only partly or not at all (in both cases: "interruption").
- Nominations shall be allocated first to the firm capacities (FZK, DZKg) and then to the interruptible capacities (UK according to Annex 3, DZKu). Within the firm capacities nominations shall be allocated first to the FZK capacity type (FZK share of the nomination) and second to the DZK capacity type (DZK share of the nomination). Within interruptible capacities nominations shall be allocated first to the UK according to Annex 3 and second to the DZKu.
- Interruption sequence: Prior to the interruption of the UK at the respective entry or exit point, the interruptible DZK shares (DZKu) of all System Users shall be interrupted at this entry/exit point. Within the UK nominations shall be interrupted according to Annex 3, whereas the part of nominations related to a



higher interruption class respectively shall be interrupted prior to the part of nominations related to a lower interruption class respectively.

### **Article 3: Capacity**

- 3.1 After successful participation in an auction, the capacity bindingly booked by the System User according to the electronically submitted auction results can be used as specified in Article 6.
- 3.2 In case the minimum amount of capacity and/or the minimum price for incremental capacity was not reached in an auction Gas Connect Austria shall be entitled to cancel the capacity bookings despite the auction results of the auction platform. In case that Gas Connect Austria is not able to provide the firm capacity from an auction for incremental capacity with the contractually agreed starting date, Gas Connect Austria will inform the System User immediately. In this case contractually agreed capacities will be available on interruptible basis until the actual providing of capacities on firm basis.

### **Article 4: Activation deposit, payment for services and deposit**

- 4.1 In case that the activation deposit is provided in form of a bank guarantee and the bank guarantee is not renewed two (2) months before the end of effectiveness at the latest, Gas Connect Austria shall have the right to deactivate the system user for further participation in auctions according Article IV Sec. 9 of the General Terms and Conditions for Transmission Network Access of Gas Connect Austria.
- 4.2 In case of collateralisation of several capacity contracts with a duration of a quarter or a year the total amount to be provided by the system user in form of a cash deposit or a bank guarantee is limited with the highest security deposit of the collateralised capacity contracts according to Article IV Sec. 15 of the General Terms and Conditions for Transmission Network Access of Gas Connect Austria.
- 4.3 The System User shall pay for the services to be rendered in accordance with the electronically submitted auction results a monthly fee "E<sub>m</sub>" in Euro (EUR) to Gas Connect Austria. The monthly fee "E<sub>m</sub>" results from the tariffs under the Gas System Charges Ordinance 2013 (*Gas-Systemnutzungsentgelte-Verordnung, GSNE-VO 2013*) as last amended ("starting price") plus the auction surcharge ("surcharge"), multiplied by the quantity according to the electronically submitted auction results, divided by the number of months for which the respective capacity and product type was booked, and is calculated as follows:

$$E_m = \frac{(Sp + Sc) * Q}{M}$$

where:

- $E_m$  = the monthly fee to be paid by the System User in EUR (euro)
- $Sp$  = starting price of the auction for the booked capacity and product type pursuant to Gas System Charges Ordinance as last amended, converted to ct / kWh / h / runtime, rounded to 2 decimals
- $Sc$  = surcharge in addition to the starting price for the booked capacity and product type in ct / kWh / h / runtime, rounded to 2 decimals
- $Q$  = booked capacity as hourly flow rate over the entire runtime in kWh / h
- $M$  = number of months for which the respective capacity and product type was booked.

The surcharge remains unchanged over the term of the contract.

- 4.4 The monthly fee " $E_m$ " pursuant to Article 4.1, shall be exclusive of taxes, duties and other levies. Gas Connect Austria shall be entitled to add to the fee to be paid by the System User all taxes, duties and/or levies imposed on Gas Connect Austria by a public authority with respect to the provision of the transportation services.
- 4.5 In case of interruption of UK, the System User shall be refunded an amount " $ER_m$ " according to the Gas System Charges Ordinance as last amended on the basis of the refund factor by interruption class in accordance with Annex 3 for the duration of the interruption. The amount of such refund " $ER_m$ " within a month of service shall be deducted from the fee per month " $E_m$ " payable for such month of service. In the event that the System User does not, or only to a limited extent, make use of the hourly flow rate as made available by Gas Connect Austria, the reduction " $E_{K_m}$ " shall in any case be calculated on the basis of the hourly flow rate as made available by Gas Connect Austria.
- 4.6 In the event of an interruption of DZKu, no refund shall be made, in accordance with Gas System Charges Ordinance as last amended.
- 4.7 No refund shall be made for interruptible transports between the relevant points in Überackern. As these transportation services can only be carried out in the relations as set forth in the Gas System Charges Ordinance as last amended, access to the virtual trading point shall be explicitly denied.
- 4.8 In the cases referred to in Article V. (8) (temporary disruptions) and Article XVIII. (force majeure) of the *General Terms and Conditions for Transmission Network Access*, Gas Connect Austria shall have the right to limit the transportation service by limiting the hourly flow rates ("reduction"). In that case the System User shall, for a certain period, get an hourly flow rate smaller than the flow rate contractually agreed. Under certain circumstances the reduction may result in an hourly flow rate of zero (0).



According to the Gas System Charges Ordinance as last amended, in the event of reductions due to unplanned maintenance work the System User shall be eligible for a reduction of the fee. In the event that the System User does not, or not to the full extent, make use of the hourly flow rate as made available by Gas Connect Austria, the reduction "E<sub>km</sub>" shall in any case be calculated on the basis of the hourly flow rate as made available by Gas Connect Austria.

- 4.9 In the event that the System User does not, or only to a limited extent, make use of the hourly flow rate, though it has been made available by Gas Connect Austria in full, the System User shall at any rate pay the monthly fee "E<sub>m</sub>" as agreed in Article 4.1 ("ship-or-pay").

#### **Article 5: Use of capacities**

- 5.1 Capacities according to the electronically submitted auction result can only be nominated after allocation to a balance group or sub-balance account by the balance group representative according to the Other Market Rules (*Sonstige Marktregeln, SoMa*) as last amended, Chapters 2 and 3 and – where necessary – any additional provisions. The System User shall be responsible for the allocation to a balance group in good time. The relevant lead times are published on the website [www.gasconnect.at](http://www.gasconnect.at).
- 5.2 The System User shall take care that the balance group responsible is authorised to allow a capacity allocation under this contract to the relevant balance group(s) or to a sub-balance account.
- 5.3 If the balance group responsible violates the terms of the contract with the market area manager, and the market area manager orders reductions of the nomination or suspends the nomination authorisation, this shall not limit the validity of the capacity contracts and the System User's obligation to pay. If these capacity rights are allocated to the balance group or to a sub-balance account of another balance group representative with an intact nomination authorisation, or the contractual conditions between the balance group representative and market area manager are reinstated, they can be nominated without any restriction.
- 5.4 The allocation of capacities to a balance group or a sub-balance account shall be deemed upheld, as long as the System User's contractual obligations are met. Otherwise the allocation of capacities shall be deemed null and void.

#### **Article 6: Dispute settlement**

- 6.1 Any dispute arising out of or in connection with this Frame Capacity Contract, including supplementary agreements, if any, shall be finally decided in accordance with the most recent version of the Rules of Arbitration of the

International Chamber of Commerce (ICC) by three arbitrators nominated in accordance with such Rules.

- 6.2 The court of arbitration shall have its seat in Vienna. The language of arbitration shall be German.

#### **Article 7: General Terms and Conditions**

- 7.1 The *General Terms and Conditions for Transmission Network Access* ([www.gasconnect.at](http://www.gasconnect.at)) are the general terms of business applied by Gas Connect Austria to the Frame Capacity Contract. These constitute an integral part of this Frame Capacity Contract. The System User shall acknowledge the version of the *General Terms and Conditions for Transmission Network Access* applying at date of signing of this Frame Capacity Contract and published on the Internet, and confirm acceptance thereof.
- 7.2 In the event of conflicts between the Annexes, in particular the *General Terms and Conditions of Transmission Network Access* and the Frame Capacity Contract, the terms of the Frame Capacity Contract shall have precedence.
- 7.3 As of March 2017 the System User has the possibility to obtain Capacities for the Interconnection Point Mosonmagyaróvár via the auction platform Regional Booking Platform ("RBP"). The registration for and the execution of each auction on the auction platform RBP shall be subject to the terms of use of the auction platform RBP as applicable. At the same time for each such auction the *General Terms and Conditions of Transmission Network Access* shall apply in such a way that in Article 4 each reference to PRISMA primary shall be read as a reference to the auction platform used in the case at hand.

#### **Article 8: Annexes**

- 8.1 The following Annexes constitute an integral part of this Frame Capacity Contract:

<b>Annex 1:</b>	General Terms and Conditions for Transmission Network Access
<b>Annex 2:</b>	Quality and Pressure Specification
<b>Annex 3:</b>	Interruption Classes
<b>Annex 4:</b>	Bank Guarantee Model Activation Deposit
<b>Annex 5:</b>	Bank Guarantee Model Security Deposit
<b>Annex 6:</b>	Form – Authorised User

The System User has taken note of these Annexes in full and accepts them herewith.

- 8.2 Already successfully with PRISMA registered and activated authorised users as regards PRISMA remain unaffected from the requirement of a new application according to Annex 6 "Form – Authorised User". For them, already existing applications apply without any restrictions.



## Article 9: Term of contract

- 9.1 This Frame Capacity Contract shall come into effect upon signing thereof by both contracting parties and shall remain fully effective for an unlimited period of time.
- 9.2 This Frame Capacity Contract is set up and signed in two (2) original copies, with each of the contracting parties receiving one (1) original copy.

Vienna, 23.02.2017

  
Gas Connect Austria GmbH



Prague,

  
CONTE spol. s.r.o.

