**ANNEX 4 - STANDARD CONTRACT WITH THE RERA**

**CONTRACT for the sale-purchase of natural gas**

**CHAPTER I: The Contracting Parties**

S.C. .................................. - S.A./S.R.L.,

Romanian legal entity, established in...........................,

registered with the Trade Register under the no. .............,

having the Sole Registration Code................,

IBAN code no. ..................., opened with .......................,

legally represented by ...............................,

acting as................................,

and by ..............................,

acting as .........................,

holder of the Natural Gas Supply Licence no. ..............,

hereinafter referred to as ”the Seller”,

and

S.C. .................................. - S.A./S.R.L.,

Romanian legal entity, established in...........................,

.........................., .....................,

district ......., telephone............., fax ...........,

registered with the Trade Register under the no. ...............,

having the Sole Registration Code RO.....................,

account no. ..........................,

opened with .........................., the branch .......................,

legally represented by .......................,

acting as .........................,

and by.....................,

acting as...........................,

\* holder of the Natural Gas Supply Licence no. ........ of ......................,

\* Fill in where appropriate.

hereinafter referred to as ”the Buyer”,

The Seller and the Buyer, hereinafter referred to individually as the party and collectively the parties, have agreed to conclude this natural gas sale-purchase contract (the Contract), subject to the following terms and conditions:

**Art. 1**

The terms used have the meaning defined in annex no. 1 to this contract.

**CHAPTER II: Object of the contract**

**Art. 2**

**(1)** The object of the contract is the sale by the Seller and the purchase by the Buyer of firm quantities of natural gas from domestic production, expressed in energy units (Contracted quantity). The transfer of ownership is made in the virtual trading point (VTP), based on the trading report made available to the parties by the operator of the centralized natural gas market. The quantities of natural gas are to be delivered by the Seller and taken over by the Buyer in a constant daily profile, with the rounding of the quantity from the last day of delivery, in order to obtain the contracted quantity.

**(2)** The contracted quantity of natural gas (Contracted quantity - CQ) which is the object of this contract is firm, both in terms of total quantity, expressed in MWh, and in terms of monthly quantities (MCQ) (MWh) and daily quantities (MWh / day), provided in annex no. 2 to this contract, the Seller having the obligation to deliver it, and the Buyer to take it over, at the price provided in art. 7, under the conditions of this contract.

**(3)** The monthly contracted quantity (MCQ) is determined as the sum of the daily quantities (DCQ) contracted in the respective contractual month.

**(4)** In case of modification of the regulations in force, the provisions of this contract shall be amended accordingly.

**CHAPTER III: Obligation to take over**

**Art. 3**

**(1)** The Buyer has the obligation to take over or pay, if the DCQ has been made available to the Buyer and has not been taken over by it in accordance with the terms and conditions of this contract, a quantity of natural gas of 100% of the DCQ.

**(2)** The Buyer's obligation to take over the natural gas established in paragraph (1) shall be reduced accordingly if the supply of natural gas by the Seller to the Buyer has been interrupted or limited due to the occurrence of a case of force majeure or of any other situation provided by the law.

**(3)** If the Buyer, for reasons other than those provided in paragraph (2) does not take over 100% of the DCQ, shall pay to the Seller a compensatory amount equal to the value of the natural gas contracted and not taken over in the respective contractual month, calculated as a product between the price provided in art. 7 of the contract and the quantity of natural gas not taken over.

**(4)** The Buyer’s taking over obligation is identical to the sum of the daily quantities of natural gas traded by the parties in the VTP and confirmed daily in the GMOIS platform of the S.N.T.G.N. Transgaz - S.A., the quantity allocated daily being identical to the one nominated daily in accordance with the provisions of art. 9.

**CHAPTER IV:** **Delivery obligation**

**Art. 4**

**(1)** The Seller has the obligation to deliver to the Buyer the entire contracted quantity of natural gas, in accordance with the terms and conditions of this contract.

**(2)** If the Seller, for reasons other than those provided in art. 3 paragraph (2), does not deliver 100% of the DCQ, then it will pay to the Buyer a compensatory amount equal to the value of the natural gas contracted and not delivered in the respective contractual month, calculated as a product between the price provided in art. 7 of this contract and the quantity not delivered.

**(3)** The Seller's delivery obligation shall be performed in the VTP and is identical to the sum of the daily quantities of natural gas traded by the parties in the VTP and confirmed daily in the GMOIS platform; the quantity allocated daily is identical to the one nominated daily, in accordance with the provisions of art. 9.

**CHAPTER V: Duration of the contract**

**Art. 5**

**(1)** This contract shall take effect starting with the date of its signature by both parties.

**(2)** The parties agree that the delivery period of the quantity of natural gas contracted by this contract starts on ...................., at 7 a.m., and ends on.................., at 7 a.m.

**CHAPTER VI: Transfer of ownership over natural gas**

**Art. 6**

**(1)** The transfer of the ownership right over the contracted natural gas is made in the VTP, in accordance with the provisions of the Network Code for the National Natural Gas Transmission System (Network Code), approved by the Order of the President of the RERA no. [**16/2013**](https://idrept.ro/00154916.htm), with the subsequent amendments and completions.

**(2)** The expenses incurred by the transfer of the ownership right over the natural gas in the VTP shall be borne according to the provisions of the legislation in force, as follows:

**a)** The Seller agrees to bear all costs, not limited to taxes, duties or tariffs before or at the time of delivery of natural gas in the VTP to the Buyer. The parties have the obligation to comply with the procedures and deadlines for entering the data in the GMOIS platform of the transmission system operator (TSO), according to the provisions of the Network Code;

**b)** The Buyer agrees to bear the payment of all costs, not limited to: taxes, fees or tariffs after the takeover of natural gas by the Buyer in the VTP, including for the excise duties related to the purchased natural gas.

**(3)** For each “n” day of delivery, the parties have the obligation to notify in the GMOIS platform of the TSO the transfer of ownership in the VTP for the daily quantity of natural gas scheduled to be handed over / taken over, in accordance with the provisions of art. 10.

**(4)** The daily quantity of natural gas actually taken over by the Buyer on the day “n” shall be the quantity confirmed in the GMOIS platform of the TSO as being transferred between the parties in the VTP on that day, based on this contract and in accordance with the provisions of the Network Code.

**CHAPTER VII: Contract price. Invoicing conditions and payment methods**

**Art. 7**

**(1)** The price of natural gas that is the object of this contract resulting from the trading session according to the Trading Report no. ........ / ............ is of ............. lei / MWh. The price is firm for the parties and cannot be changed during the execution of this contract.

**(2)** The price provided in paragraph (1) represents the value of natural gas considered as goods, to which the taxes applicable up to the point of delivery, as well as the NTS entry capacity booking tariff are added and does not include the VAT and excise duties.

**(3)** The obligation to declare and pay the excise duty, if it must be paid to the consolidated state budget for the natural gas purchased under this contract lies with the buyer and is established in accordance with the provisions of the tax legislation in force.

**(4)** The Buyer shall make available to the Seller “The notification regarding the use of the products in exemption from the payment of excise duties” according to art. 399 of the Tax Law or shall monthly fill in the “Affidavit”, according to the model provided in annex no. 3 to this contract.

The value of the excise duties, calculated according to the data communicated by the Buyer in the “Affidavit” and to the regulations in force at the date of issuing the final monthly payment invoice shall be added to it.

**Art. 8**

**(1)** For the payment by the Buyer of the value of the natural gas delivered / taken over on each contractual delivery month, the Seller shall issue two fiscal invoices, respectively:

**a)** a fiscal invoice for the advance payment of 50% of the MCQ value that shall be issued at least 5 (five) working days before the first day of delivery, with the due payment date at 5 (five) working days after the invoice issuing date. If the due date is a non-working day, the invoiced amount shall be paid on the next working day;

**b)** a fiscal invoice for the difference of 50% of the MCQ value that shall be issued until the fifth (5th) day of the delivery month, with the due payment date at 5 working days after the invoice issuing date. If the due date is a non-working day, the invoiced amount shall be paid on the next working day.

**(2)** For the regularization of any differences, the Seller shall issue a final regularization invoice, within 25 (twenty-five) calendar days after the end of the delivery month, with the due payment date of 5 (five) calendar days from the invoice issuing date. If the due date is a non-working day, the invoiced amount shall be paid on the next working day.

**(3)** In case the Buyer has not made the payment of the advance in accordance with the provisions of paragraph (1), the Seller is exempted from the obligation to deliver the MCQ. Failure to deliver natural gas does not give rise to any contractual obligation and / or liability on the part of the Seller.

**(4)** As an alternative method of payment to the provisions of paragraphs (1) and (2), the Buyer may choose to make the payment after the end of the delivery month, based on a notification sent to the Seller, under the following cumulative conditions:

**a)** until the twenty-fifth (25th) day of month following the delivery month, the Seller shall issue a fiscal invoice for the MCQ, and the Buyer shall make the payment within 5 (five) working days from the invoice issuing date. If the due date is a non-working day, the invoiced amount shall be paid on the next working day;

**b)** the Buyer is obliged to present to the Seller a letter of bank guarantee that shall be issued by a bank or financial institution agreed by both parties;

**c)** the value of the letter of bank guarantee shall represent the equivalent value of the contracted natural gas for a period of 1 (one) month - for the contracts with a delivery period of one month, respectively the equivalent value of the contracted natural gas for a period of 65 (sixty-five) days - for contracts with a delivery period of more than one month, to which the VAT or other similar taxes, excise duties and taxes are added, in accordance with the legal provisions in force. If the payment is not made on the due date, the Seller executes the guarantee; the Buyer has a term of 2 (two) working days for the reconstitution of the guarantee, otherwise the Seller shall be entitled to stop the deliveries;

**d)** the term for presenting the letters of bank guarantee, in original or through SWIFT is of minimum 5 (five) working days before the beginning of the delivery period established according to the provisions of the present contract;

**e)** the validity term of the letter of bank guarantee is until the 5th (fifth) day of the month following the last due date related to the last invoice for the quantity of natural gas delivered to the Buyer in the last contractual month;

**f)** the non-submission of the payment guarantee implies the non-delivery of the contracted natural gas. The non-delivery of natural gas under the conditions formulated in this paragraph does not give rise to any obligation and / or contractual liability on the part of the Seller;

**g)** all bank fees related to the letter of bank guarantee are borne by the Buyer.

**(5)** The invoices issued by the Seller according to the provisions of this contract shall be sent to the Buyer by fax or by electronic means with the incorporated certified electronic signature, on the issuing date, and in original, by registered letter with acknowledgment of receipt.

**(6)** The payment of the invoices shall be made by the Buyer by bank transfer or by any other type of legal payment instrument agreed by the parties.

**(7)** The payment is considered made on the date on which the bank account of the Seller is credited with the amount representing the invoiced value. The payment shall be made to the Seller's account mentioned on the invoice.

**(8)** The Buyer shall explicitly mention on the payment order the invoice that is paid and shall immediately send to the Seller a copy of it, by fax, according to the provisions of art. 17.

**(9)** The failure to pay the invoices at the due date entitles the Seller:

**a)** to charge a share of the interest on arrears equal to the level of the interest for the non-payment on the due date of the payment obligations to the consolidated state budget, calculated for each day of delay, starting with the day immediately following the due date and until full payment of the debt, including the payment day;

**b)** to limit / interrupt the delivery of natural gas, within 24 (twenty-four) hours from the transmission in this respect of a notification to the Buyer, DO and TSO.

**(10)** The Buyer shall notify in writing the Seller, at least 5 (five) days before the effective commencement of the Contract, the method of payment it has chosen.

**(11)** All other invoices issued according to the contractual provisions, for example, but not limited to them, for: imbalances, interest on arrears, compensatory amounts for non-acquisition of the MCQ, damages, etc. shall have the due date within 15 (fifteen) days from the issuing date. If the due date is a non-working day, the invoiced amount shall be paid on the next working day.

**(12)** The parties may agree on the execution of the contract without the provision of mutual guarantees.

**CHAPTER VIII:** **Nomination procedure. Imbalances**

**Art. 9**

The daily nomination represents the daily contracted quantity (DCQ), expressed in MWh / day.

**Art. 10**

**(1)** Unless the parties mutually agree otherwise, any daily / monthly imbalance generated to the Seller / Buyer shall be assumed by the Buyer and the Seller, respectively, and shall be the responsibility of the Buyer / Seller.

**(2)** C The equivalent value of the imbalances generated by the Buyer / Seller is due to the other party and is calculated in accordance with the legal provisions in force.

**CHAPTER IX: Fees and taxes**

**Art. 11**

**(1)** The Seller pays all fees and taxes related to natural gas delivered under this contract, before transferring their ownership to the Buyer in the VTP.

**(2)** The Buyer pays all fees and taxes related to natural gas delivered under this contract, after the transfer of ownership over them from the Seller in the VTP.

**CHAPTER X: Rights and obligations**

**Art. 12**

**(1)** The Seller has the following rights:

**a)** to collect the value of the natural gas sold on the basis of this contract;

**b)** to limit or interrupt the delivery of natural gas to the Buyer in case of non-payment on the due date of the invoices issued according to the provisions of art. 8 paragraph (9) point b);

**c)** to resume the delivery of the contracted natural gas within 24 (twenty-four) hours from the termination of the reason for the limitation / cessation of the deliveries;

**d)** to invoice to the Buyer all the costs related to the quantity of natural gas delivered, including those provided in art. 8 paragraph (11) - where appropriate, in accordance with the contractual provisions, and to collect their equivalent value;

**e)** to invoice to the Buyer the equivalent value of the imbalances generated to the Seller in accordance with the provisions of art. 9 (Nomination procedure);

**f)** to invoice to the Buyer the contracted and not taken over natural gas, in compliance with the provisions of art. 3 paragraph (3);

**g)** to execute the bank guarantee presented by the Buyer in case it has chosen the method of payment after the delivery month by establishing a bank guarantee in accordance with the provisions of art. 8 paragraph (4).

**(2)** The Seller has the following obligations:

**a)** to deliver to the Buyer the quantities of natural gas according to the provisions of this contract;

**b)** to invoice to the Buyer all the costs related to the quantity of natural gas delivered, in accordance with the provisions of this contract;

**c)** to maintain, during the entire delivery period of the contracted natural gas, the right of access to the VTP, respectively the right to carry out transactions and transfers of ownership over the natural gas in the VTP, according to the provisions of the Network Code and to the applicable regulations in force;

**d)** to nominate to the TSO the quantity of natural gas contracted, in accordance with the provisions of this contract;

**e)** to pay to the Buyer, in case of unilateral denunciation by the Seller or in case of termination by the fault of the Seller, the value of the contracted and undelivered natural gas;

**f)** to return to the Buyer the letter of bank guarantee within 1 (one) working day from the date of payment of all its financial obligations assumed by this contract.

**Art. 13**

**(1)** The Buyer has the following rights:

**a)** to take over the contracted natural gas quantities, in accordance with the provisions of this contract;

**b)** to contest the payment of invoices that do not comply with the provisions of this contract;

**c)** to invoice to the Seller the equivalent value of the imbalances generated to the Buyer;

**d)** to invoice to the Seller the contracted and undelivered natural gas, in compliance with the provisions of art. 4 paragraph (2).

**(2)** The Buyer has the following obligations:

**a)** to take over the contracted natural gas quantities, under the conditions of this contract;

**b)** to pay in full and on time the equivalent value of the delivered natural gas, according to the provisions of this contract;

**c)** to maintain, during the whole period of the contracted natural gas delivery, the right of access to the VTP, respectively the right to carry out transactions and transfers of ownership over the natural gas in the VTP, according to the provisions of the Network Code;

**d)** to nominate to the TSO the quantity of natural gas contracted, according to the provisions of this contract;

**e)** to pay to the Seller, in case of unilateral denunciation by the Buyer or termination due to the Buyer's fault, the equivalent value of the contracted and not taken over natural gas;

**f)** if the Buyer chooses the payment after the delivery month, to present to the Seller the letter of bank guarantee in accordance with the terms and conditions stipulated in art. 8 paragraph (4).

**CHAPTER XI:** **Confidentiality clause**

**Art. 14**

**(1)** The parties undertake to treat all information, data and documents of which they have become aware during and / or on the occasion of the execution of this contract as confidential information and take responsibility for maintaining their confidentiality.

**(2)** The following data, documents and pieces of information are exempted from the provisions of paragraph (1):

**a)** those for the disclosure of which the prior written consent of the other Contracting Party has been received;

**b)** those that at the date of their disclosure are of public circulation;

**c)** those requested by the competent bodies of the state, based on the legal information obligations;

**d)** those disclosed to affiliates for the purpose of implementing the provisions of the contract, provided that the affiliates are informed of the existence of the obligation of confidentiality.

**(3)** If any of the parties violates the obligation of confidentiality regarding this contract, by disclosing to unauthorized third parties any pieces of information that are not public, it shall be obliged to pay damages to the injured party.

**CHAPTER XII: Contractual liability**

**Art. 15**

Each party shall be responsible for the execution and fulfilment of its contractual obligations. The parties agree that, in case of non-execution or partial execution of the obligations of delivery, respectively of taking over the quantities of natural gas, the level of damages shall represent the value calculated at the contractual price of the quantities not delivered through the fault of the Seller.

**CHAPTER XIII: Termination of the contract**

**Art. 16**

**(1)** This contract terminates:

**a)** as of right, at the end of the validity period of the contract;

**b)** by the agreement of the parties;

**c)** in the situation where one of the parties no longer holds the authorizations / licences necessary for the execution of the obligations assumed by this contract;

**d)** if the events of force majeure prevent the parties from fulfilling their contractual obligations for a period longer than 30 (thirty) days;

**e)** by termination by either party, as a result of the simple non-performance by the other party of the contractual obligations, without the intervention of the court, without notice of default and without any other prior formality, with the notification of the other guilty party, at least 3 (three) calendar days before the date mentioned in the notice of cancellation of the contract;

**f)** as of right, in case of bankruptcy, as the case may be, of the contracting party / parties.

**(2)** The termination of this contract has no effect on the already due contractual obligations assumed by the parties and not yet performed.

**(3)** Any of the parties has the right to unilaterally terminate this contract, with a notice of 30 (thirty) calendar days, with the obligation to pay the quantity of natural gas not delivered according to the provisions of art. 13 paragraph (2) or of the quantity of natural gas not taken over according to the provisions of art. 13 paragraph (2).

**CHAPTER XIV: Notifications**

**Art. 17**

**(1)** The parties agree that, during the execution of this contract, all notifications and / or communications between them shall be made in writing and sent by fax, registered mail with acknowledgment of receipt, by courier or by electronic means, to the addresses indicated below:

For the Seller:

S.C. .....................................................................

Headquarters: ................................................................

Telephone: .......................

Fax: .......................

For the Buyer:

S.C. .....................................................................

Headquarters: ................................................................

Telephone: .......................

Fax: .......................

E-mail ...................

**(2)** If the notification is made by post, it shall be sent by registered letter with acknowledgment of receipt and shall be deemed to have been received by the addressee on the date specified by the receiving post office.

**(3)** The verbal notifications shall not be taken into account by the parties unless they are confirmed by means of one of the modalities provided in paragraphs (1) and (2).

**(4)** The change of the correspondence address of any of the parties shall be notified according to the provisions of paragraph (1), at least 5 (five) days before it becomes effective.

**CHAPTER XV: Changing circumstances**

**Art. 18**

**(1)**. “Change in the legal circumstances” means the case where, during the execution of this contract, one or more normative acts enter into force which, in relation to the object of regulation, justify the legal modification and / or completion of the contract, in order to ensure its compliance with the normative provisions

**(2)** In the event of a change in circumstances affecting the provisions of this contract, the parties undertake to sign an additional act reflecting that change.

**CHAPTER XVI: Force Majeure**

**Art. 19**

**(1)** The case of force majeure represents that future event, unpredictable and insurmountable that exonerates from liability the party invoking it in case of partial or total non-execution of the obligations assumed by the contract, if it is invoked under the law.

**(2)** The party invoking a case of force majeure is obliged to notify the other party within 48 (forty-eight) hours from the occurrence of the event, followed by the submission of the supporting documents within 5 (five) calendar days from the same date. At the same time, the party concerned is obliged to take all possible measures to limit the consequences of such a case.

**(3)** The cases of force majeure shall be approved by the Chamber of Commerce and Industry of Romania.

**(4)** If the force majeure does not end within 30 (thirty) calendar days, the parties have the right to request the full termination of the contract, without any of them claiming damages.

**(5)** The occurrence of a case of force majeure does not exonerate the parties from the due obligations until the date of occurrence of the case of force majeure.

**CHAPTER XVII: Applicable legislation**

**Art. 20**

**(1)** This contract is subject to the Romanian legislation in force.

**(2)** The provisions of this contract are completed with the provisions of the Civil Code, as well as with the other regulations in force.

**(3)** The parties agree that all disagreements resulting from the interpretation, execution or termination of this contract shall be settled amicably.

**(4)** Otherwise, any dispute arising out of or in connection with this contract, including regarding its conclusion, execution or dissolution, shall be settled by the competent courts.

**CHAPTER XVIII: Assignment**

**Art. 21**

**(1)** Neither party may assign to a third party, in any way, in whole or in part, its rights and / or obligations arising from this contract, except with the written consent of the other party, which may not be refused without reason.

**(2)** The notification of the intention to assign shall be sent to the other party at least 5 (five) working days before the date provided for the assignment.

**(3)** The notified party has the obligation to respond reasonably, within maximum 5 (five) working days from the date of registration of the notification.

**CHAPTER XIX: Protection of personal data**

**Art. 22**

Without prejudice to any other clause in this document, the national data protection laws and the General Data Protection Regulation (GDPR) EU 2016/679 (from the date of its application, respectively May 25, 2018) shall apply).

**CHAPTER XX: Final clauses**

**Art. 23**

In case of change of the legal form / judicial reorganization, the parties undertake to communicate, within a maximum of 5 (five) calendar days from this date, how to take over the mutual contractual obligations.

**Art. 24**

Annexes no. 1-3 are an integral part of this contract.

This contract was concluded today, ......................, following the tender dated.................... organized on the electronic trading platform managed by the company Bursa Română de Mărfuri (Romanian Commodities Exchange) S.A., in 2 (two) original copies, one for each party.

|  |  |
| --- | --- |
| SELLER | BUYER |
|  |  |
|  |  |

**ANNEX no. 1: TERMINOLOGY**

RERA – the Romanian Energy Regulatory Authority t

Contracted quantity (CC) – the quantity of natural gas, expressed in MWh, delivered by the Seller to the Buyer, in accordance with the provisions of the contract, during the delivery period

Daily contracted quantity (DCQ) – the quantity of daily gas contracted by the parties in the VTP, in accordance with the provisions of the contract, during the delivery period

Delivery period – the period between the starting date of the delivery, 7.00 a.m., Romanian time, and the end date of the delivery, 7.00 a.m., Romanian time

Working day – any day, other than Saturday or Sunday or any legal holiday, on which banks are open for operations in Romania

Non-working day – any Saturday or Sunday or any legal holiday in which the banks are closed for carrying out any operations in Romania

**ANNEX no. 2: Contracted QUANTITY of natural gas**

|  |  |  |
| --- | --- | --- |
| Month / year of delivery | Monthly contracted quantity (MCQ)  MWh/month | Daily contracted quantity  (DCQ)  MWh/day |
|  |  |  |
| Total |  |  |

**ANNEX no. 3: AFFIDAVIT**

We hereby declare that the natural gas purchased in the month ................ the year .......... from S.C. .................................., according to the Sale-purchase contract no. ........ / ............, have been used by our company for the following purpose (s):

|  |  |
| --- | --- |
| Natural gas taken over | Quantity (GJ) |
| 1. Used as engine fuel |  |
| 2. Used as heating fuel  2.1. for commercial purposes  2.2. for non-commercial purposes |  |
| 3. Used for other purposes (non-excisable)1 |  |
| Total natural gas taken over |  |

1 Mention: .......................................................

This affidavit is the document on the basis of which S.C. ........................... is going to calculate the related excises for the natural gas sold to our company in the month .......... the year ............

|  |  |
| --- | --- |
| Signature of the legal representative  ................................. | Date ................. |