

**GENERAL TERMS AND CONDITIONS OF PARTICIPATION IN AND ACCESS TO
CAPACITY IN THE BINDING PHASE OF ALLOCATION OF INCREMENTAL CAPACITY
ON THE BORDER BETWEEN POLAND AND UKRAINE
(hereinafter the 'INC GT&C')**

1. General provisions

- 1.1. This INC GT&C regulates the general terms and conditions that the System User must accept in order to participate in the Auction and to gain access to the incremental capacity made available in the Auction.
- 1.2. Transmission services for the capacity allocated under the Auction will be provided in accordance with the transmission contract, this INC GT&C, as well as in accordance with the General Terms and Conditions of the Transmission Contract applicable at any given time (hereinafter: "GTC"), TNC and the Tariff. This INC GT&C, after allocating capacity resulting from the Auction, will regulate the specific rules for the provision of transmission services by GAZ-SYSTEM to the System User in terms of capacity allocated to that System User as part of the Auction. This INC GT&C does not exclude the GTC provisions, in particular regarding financial securities, confirming the financial ability of the System User to meet its financial obligations towards GAZ-SYSTEM for the performance of the transmission contract, including ways and terms of using them by GAZ-SYSTEM.
- 1.3. By submitting an offer in the Auction, the System User accepts without reservation the conditions set out in GTC, TNC, the Tariff and in this INC GT&C.
- 1.4. This INC GT&C was prepared in Polish and English language versions. In the event of a discrepancy between the Polish and English language versions of this INC GT&C, the Polish version shall prevail.

2. Definitions

- 2.1. Auction - annual yearly capacity auction conducted on the terms set forth in the CAM Network Code, under which the incremental capacity of the Cieszyn interconnection point shall be made available.

- 2.2. GAZ-SYSTEM - company under the name of Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. with its seat in Warsaw, acting as the transmission-system operator within Poland;
 - 2.3. TNC - currently binding Transmission Network Code compiled pursuant to binding provisions of the law and published on GAZ-SYSTEM's website (<https://en.gaz-system.pl/strefa-klienta/iriesp/instrukcja-ruchu-i-eksploatacji-sieci-przesylowej/>). This INC GT&C refers to the Transmission Network Code approved by the decision of the President of the Energy Regulatory Office of January 5, 2021 (ref.: DRR.WRG.4322.4.2020.IWa) or any subsequent TNC version replacing or amending the aforesaid.
 - 2.4. GTSOU - company under the name of LLC "Gas Transmission System Operator Of Ukraine" with its seat in Kiev, acting as the transmission system operator within Ukraine;
 - 2.5. GSA Platform - platform to offer capacity in the relevant transmission systems at the GCP GAZ-SYSTEM/UA TSO interconnection point by GAZ-SYSTEM and GTSOU;
 - 2.6. Project - project to create a new technical capacity at the existing GCP GAZ-SYSTEM/UA TSO interconnection point based on capacity allocation in a preceding incremental capacity procedure;
 - 2.7. Tariff - currently applicable list of prices, fee rates and their application rules, compiled by GAZ-SYSTEM and introduced as binding in settlements with the System User, published on the GAZ-SYSTEM website (<https://www.gaz-system.pl/strefa-klienta/taryfa/taryfa-i-stawki-oplat/>). This INC GT&C refers to the Tariff No. 15 approved by the decision of the President of the Energy Regulatory Office of June 2, 2021 (ref.: DRG.DRG-2.4212.16.2021.JDo), or to any subsequent Tariff version replacing or amending the aforesaid;
 - 2.8. System User - entity using the transmission system under a transmission contract, being either a Shipper (ZUP) and/or Network User according to TNC.
3. Binding phase of incremental capacity allocation
- 3.1. In the binding phase of incremental capacity allocation under the Project, GAZ-SYSTEM shall make available incremental capacity for the GCP GAZ-SYSTEM/UA TSO interconnection point, in the flow direction from Poland to Ukraine and in the form of fifteen (15) yearly incremental capacity products, covering fifteen (15) gas

years, from 1 October 2030 06:00 a.m. to 1 October 2045, 06:00 a.m.

- 3.2. During the binding phase of incremental capacity allocation, each yearly product shall be made available through separate Auctions for incremental capacity at the levels corresponding to the two Offer Levels specified in the Project:
 - 3.2.1. Offer Level I: 3 095 890 kWh/h,
 - 3.2.2. Offer Level II: 4 620 557 kWh/h.
 - 3.3. The yearly incremental capacity products covering the period from 1 October 2030, 06:00 a.m. to 1 October 2045, 06:00 a.m. shall be made available through an Auction for the GCP GAZ-SYSTEM/UA TSO interconnection point, in the flow direction from Poland to Ukraine.
 - 3.4. Capacity allocation to System Users that acquired the capacity in the Auction shall be, subject to point 6.8, conditional on the GAZ-SYSTEM 's investment decision to implement the Project.
 - 3.5. GAZ-SYSTEM shall take the investment decision to implement the Project provided that GAZ-SYSTEM and GTSOU shall have obtained positive economic test results and entered into an agreement for the implementation of the Project.
 - 3.6. In the event of a positive economic outcome for both Offer Levels, i.e. Offer Level I and Offer Level II, GAZ-SYSTEM and GTSOU will continue to work on the Project based on the capacity specified in Offer Level II.
 - 3.7. Subject to clause 3.4, capacity allocation shall be made in an amount corresponding to the Offer Level for which a positive investment decision is made.
4. Terms of participation in an Auction
- 4.1. GAZ-SYSTEM shall conduct the binding phase of incremental capacity allocation on the GSA Platform, in accordance with the terms and conditions for using the platform binding on the day of conducting the Auction, and with the TNC.
 - 4.2. The following is required in order to participate:
 - a) entering into a transmission contract with GAZ-SYSTEM in accordance with the provisions of the TNC;

- b) submitting a power of attorney for the persons authorized to participate in the Auction to GAZ-SYSTEM, unless the System User has already presented such power of attorney;
- c) successful from GAZ-SYSTEM's perspective registration on the GSA Platform;
- d) submission of financial securities in the value and form set out in this INC GT&C;

no later than one week before the Auction starts.

- 4.3. Transmission services in respect of the capacity allocated in the Auction shall be provided in accordance with the concluded transmission contract (including INC) along with its appendices, referred to in point 4.2. a), as well as in compliance with the TNC and the Tariff, both as binding at each such time. Following to the capacity allocation as a result of the Auction, this INC GT&C shall constitute an appendix to the transmission contract concluded between GAZ-SYSTEM and the System User, regulating the detailed rules for the provision of transmission services by GAZ-SYSTEM to the relevant System User in respect of the incremental capacity allocated to that System User in the Auction.

5. Financial Security for participation in the Auction and incremental capacity allocation

- 5.1. In order to participate in the Auction, the System User shall submit a financial security confirming the System User's financial capability to perform the obligations owed to GAZ-SYSTEM under the bid, in the form, date and amount specified in this INC GT&C.
- 5.2. The System User has to establish the security in one of the following forms:
- 5.2.1. bank guarantee;
 - 5.2.2. cash deposit.
- 5.3. The System User shall establish the security no later than 1 (one) week before the Auction, delivering a document in writing to GAZ-SYSTEM evidencing the establishment of a financial security (i.e. original bank guarantee or confirmation of bank transfer to GAZ-SYSTEM 's bank account).
- 5.4. The System User shall establish a financial security in the amount determined in accordance with point 5.5 below, but not lower than the equivalent of PLN 10,000.00 (ten thousand Polish zlotys).

- 5.5. The value of the financial security to be submitted by the System User in case of applying for capacity allocation in the Auction for:
- (i) one (1) yearly product — shall be twice the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (ii) two (2) yearly products — shall be three times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (iii) three (3) yearly products — shall be four times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (iv) four (4) yearly products — shall be five times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (v) five (5) yearly products — shall be six times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (vi) from six (6) to seven (7) yearly products — shall be seven times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (vii) from eight (8) to nine (9) yearly products — shall be eight times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (viii) from ten (10) to eleven (11) yearly products — shall be nine times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (ix) from twelve (12) to thirteen (13) yearly products — shall be ten times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (x) fourteen (14) yearly products — shall be eleven times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
 - (xi) fifteen (15) yearly products — shall be twelve times the monthly average of the System User's financial obligations to GAZ-SYSTEM;
— calculated on the basis of the amount of capacity covered by the offer of a given System User as part of the annual product for which it submits the offer covering the highest level of capacity from all those requested by a given System User under the Auction, and published by GAZ-SYSTEM indicative transmission fee rate adopted by GAZ-SYSTEM to carry out an economic test.
- 5.6. The financial security shall be established in Polish currency (PLN).

- 5.7. If establishing the security in the form of bank guarantee, GAZ-SYSTEM requires the guarantee document to provide that the guarantee is irrevocable, non-transferable, unconditional and payable on GAZ-SYSTEM's first demand and issued by a bank with current rating from a rating agency (minimum acceptable level is Baa2 for Moody's, BBB for Standard & Poor's, or BBB for Fitch), the content of which has been accepted by GAZ-SYSTEM. In case bank company issuing a bank guarantee, as appropriate, during the period referred to in point 5.13, loses the minimum rating referred to in the sentence above, the System User is obliged to immediately, no later than within 30 (thirty) days from the loss of the rating, to provide financial security that meets the requirements of this INC GT&C. The bank guarantee will be subject to the provisions of Polish law. If the guarantee was not issued in Polish, it should be submitted to GAZ-SYSTEM along with sworn translation into Polish.
- 5.8. Subject to the remaining provisions of point 5, the System User may submit financial security in the form of bank guarantee valid for a period shorter than the System User's obligation to maintain the security referred to in point 5.13., though no shorter than 1 (one) year, provided that the security shall be renewed for the period of at least one following year fifteen (15) Business Days before expiry. The bank should entitle GAZ-SYSTEM to demand the payment of the value of the guarantee if the System User has not renewed the bank guarantee and has not submitted to GAZ-SYSTEM the proof of having established a new bank guarantee in accordance with the provisions of point 5, fifteen (15) Business Days before expiry .
- 5.9. Financial security established in the form of cash deposit should be paid to the following bank account indicated by GAZ-SYSTEM: 94 1140 1977 0000 5803 0100 1031. The transfer should be entitled: "Financial security INC GCP GAZ-SYSTEM/UA TSO". The time of submission of the security shall be deemed to be when GAZ-SYSTEM's account is credited.
- 5.10. If the System User applies for capacity allocation in the Auction at a level resulting in a greater value of the System User's financial obligations owed to GAZ-SYSTEM than arising from the financial security established by the System User, or if the System User has submitted a bid in the Auction without having established the required financial security, the System User shall pay to GAZ-SYSTEM a contractual penalty corresponding to the value of the required

financial security, as determined in accordance with the provisions of this INC GT&C. GAZ-SYSTEM shall be entitled to draw on the financial security established by the relevant System User against the contractual penalty due. If the System User submits an offer as part of the Incremental capacity auction without establishing any required financial security, the System User will be obliged to pay to GAZ-SYSTEM a contractual penalty in the amount corresponding to the value of the required financial security, determined in accordance with the provisions of this INC GT&C.

- 5.11. Within ten (10) Business Days after completion of the capacity allocation in the Auction, the System User shall have the right to have the value of the submitted financial security adjusted to the capacity level allocated to the System User, i.e. the calculation of the amount of financial security based on the amount of capacity allocated as part of the annual product for which the System User obtained the highest amount of capacity from all annual products allocated to him as a result of the Auction.
- 5.12. From the moment of providing the System Users with the capacity created as a result of the Project implementation by GAZ-SYSTEM and GTSOU, the amount of financial security that the System User is required to maintain will be calculated on the basis of the fees for the provision of transmission services for the annual product for which the System User obtained the highest amount of capacity from all annual products allocated to the System User as a result of the Auction, in accordance with the current Tariff.
- 5.13. The System User who obtained the incremental capacity under the Auction is obliged to maintain the financial security submitted to GAZ-SYSTEM in full and in the form provided for in this INC GT&C, from the moment specified in point 5.3 until the last day of the second (2) month after the end of the last gas year of transmission services provided to the System User as part of the capacity allocated in the binding phase of the incremental capacity.
- 5.14. Financial security established in the form of financial deposit shall be paid back with interest arising from the bank account contract relating to the account in which the financial security was kept, minus maintenance costs and bank commission for transferring the money to the System User's bank account.
- 5.15. GAZ-SYSTEM will be entitled to use financial security in the event that the System User delays payment of claims arising from

compensation claims, contractual penalties and/or for reimbursement of expenses specified in the INC GT&C, after the prior written indication by GAZ-SYSTEM of an additional fourteen-day period for payment of these claims and not earlier than one (1) month after the original payment deadline.

- 5.16. In the event that GAZ-SYSTEM uses financial security in the cases specified in this INC GT&C, the System User will be required to supplement the financial security to the full required amount determined in accordance with the provisions of this INC GT&C each time within one (1) month from the use of financial security by GAZ-SYSTEM.
 - 5.17. In the event that the System User does not maintain the correct and in line with the INC GT&C financial security in the full amount calculated in accordance with the provisions of this INC GT&C, in particular if the System User does not supplement or deliver the financial security in accordance with the provisions of point 5.7., 5.11., and/or 5.16., the System User will be required to pay to GAZ-SYSTEM a contractual penalty: (i) in the amount corresponding to the value of the required financial security determined in accordance with the provisions of this INC GT&C, when such System User does not maintain such security, or (ii) the difference between the value of the required financial security and the value of the maintained financial security determined in accordance with the provisions of this INC GT&C, when the financial security maintained by the System User is too low in relation to its required amount determined in accordance with the provisions of this INC GT&C. GAZ-SYSTEM will be entitled to use the financial security established by the given System User against the contractual penalty due.
6. Delays in the provision of the capacity, and/or disruption in the implementation of the Project
 - 6.1. GAZ-SYSTEM shall notify System Users sufficiently in advance of any delays in making available the incremental capacity allocated in the Auction and/or any disruption in the implementation of the Project.
 - 6.2. The starting date for the provision of gas transmission services in respect of the incremental capacity provided under the Auction may be postponed (delayed) by GAZ-SYSTEM for a period no longer than 24 (say: twenty-four months), subject to a notification

provided to the System User in writing. The notification, setting out the reason for postponing the starting date and the new starting date for the provision of gas transmission services in respect of the incremental capacity made available in the Auction, shall be sent to the System User at least 6 (say: six) months before the planned date and time of starting the provision of gas transmission services in respect of the incremental capacity made available in the Auction. In such a case, the date of commencement of the provision of gas transmission services in the scope of incremental capacity made available under the Auction will change in accordance with the notification of GAZ-SYSTEM (new date). The System User shall not be entitled to any claims against GAZ-SYSTEM on this account with the exception of cases where the postponement of the date was caused by GAZ-SYSTEM's willful misconduct. For the avoidance of doubt, the notification on postponing the starting date for the provision of gas transmission services in respect of the incremental capacity made available in the Auction may be given more than 1 (say: one) time, provided that the total deferment of the starting date for the provision of gas transmission services in respect of the incremental capacity made available in the Auction does not exceed 24 (say: twenty-four) months. The System User shall have no claims against GAZ-SYSTEM on account of any such deferment of the date and time of starting the provision of gas transmission services in respect of the incremental capacity made available in the Auction with the exception of cases where the postponement of the date was caused by GAZ-SYSTEM's willful misconduct.

- 6.3. In the event of delays in implementing the Project and/or on enabling the incremental capacity, the capacity allocated in the binding phase of incremental capacity allocation available for the relevant gas year shall be prorated and reduced among the System Users having acquired capacity within the relevant yearly product in the Auction. GAZ-SYSTEM shall reduce the capacity allocated in the Auction to the bid level implemented in the Project, so that the sum total of capacity levels offered to the individual System Users within the relevant yearly product does not exceed 100% of the technical capacity for relevant gas year.
- 6.4. Within 14 (say: fourteen) days after receiving initial information from GAZ-SYSTEM about the proposed capacity reduction provided to the System User in the form of a written notification, the System User

shall be entitled to surrender all or part of the proposed reduced capacity allocation, as well as to transform the whole or part of the capacity allocated to that System User in the Auction for the relevant yearly product into interruptible capacity. In the absence of a prompt response from the System User to GAZ-SYSTEM's initial information about the proposed capacity reduction, the System User shall be deemed to have accepted the proposed reduction.

- 6.5. The System User that has surrendered all or part of the proposed reduced capacity allocation shall not be required to pay transmission fees.
- 6.6. Depending on the number of confirmations received, GAZ-SYSTEM shall, electronically, through the Information Exchange System (IES), provide System Users that accepted the proposed capacity reduction with initial information about such additional available capacity which may be allocated to them, pro rata based on the capacity already allocated to them. System Users shall have 14 (fourteen) days to confirm or reject the allocation of additional capacity proposed to them.
- 6.7. In the event of any delays in implementing the Project and/or in making the incremental capacity available, the System User shall not have any right to use the capacity that was not made available at a later date.
- 6.8. GAZ-SYSTEM shall not be liable for the System User's lost profits or any special, indirect and/or consequential damage arising from delays in implementing the Project and/or making the incremental capacity available with the exception of cases where the above-mentioned damages result from the willful misconduct of GAZ-SYSTEM. Moreover, GAZ-SYSTEM shall not be liable for any of the System User's damage, including loss of profits, special, indirect and/or consequential damage, arising from impossibility in implementation of the Project and/or making the incremental capacity available on time being a result of circumstances, both directly and indirectly related to the implementation of the Project: (i) for which GTSOU or acting in its behalf entities are liable, (ii) caused by force majeure.
- 6.9. In the event of delay in GAZ-SYSTEM's commencement of provision of gas transmission services in respect of the capacity allocated in the Auction, the System User shall have the obligation to exercise necessary care to minimize the loss so caused, in particular by

taking any and all possible action to postpone the time of gas offtake, resell the gas, and/or change the transmission route with the exception of cases where the delay was caused by GAZ-SYSTEM's willful misconduct.

- 6.10. In case of a delay in the commencement of provision of gas transmission services by GAZ-SYSTEM, GAZ-SYSTEM's liability shall be limited to the value of the lowest loss the System User could have objectively incurred and duly proven by the System User, subject to the provision of point 6.9 above with the exception of cases where the delay was caused by GAZ-SYSTEM's willful misconduct.
- 6.11. By submitting a bid in the Auction, the System User undertakes to ensure that the transmission contract concluded with GAZ-SYSTEM along with the appendix setting out the capacity period and level allocated to the System User in consequence of the Auction is maintained in force, throughout the duration of the capacity allocation made in accordance with the principles set out in this INC GT&C. If the transmission contract and/or the aforesaid appendix is terminated before the expiry of their term of duration of the capacity allocation made in accordance with the principles set out in these GTC INC, the System User shall pay to GAZ-SYSTEM a contractual penalty calculated in accordance with clause 6.12.
- 6.12. The contractual penalty shall be equal to a part of project implementation costs incurred by GAZ-SYSTEM, calculated as follows:

$$\mathbf{K = C \times M}$$

Where:

K — expenditures incurred by GAZ-SYSTEM in Project implementation that the System User is obliged to pay (in PLN);

C — sum of expenditures incurred by GAZ-SYSTEM and estimated expenditures GAZ-SYSTEM has to pay toward Project implementation (in PLN) in particular any compensation to the Project's contractors for design and construction works and/or other TSOs due to resignation from the implementation of the Project, with the exception of cases where the termination by the System User of the transmission contract or the attachment specifying the level and period of the capacity allocated to a given System User as a result of the Auction is a consequence of force majeure;

M — ratio of the sum total of capacity (contracted capacity) allocated to the System User throughout its duration to the sum of the total capacity of the Entry/Exit Point allocated by GAZ-SYSTEM in the Auction throughout its duration;

- 6.13. The value of project-implementation costs incurred by GAZ-SYSTEM S.A. that the System User has to pay shall be adjusted, after the commissioning of the Project, pro rata to the positive or negative difference between the planned and actual project implementation costs incurred by GAZ-SYSTEM.
- 6.14. If the transmission contract entered into between the System User and GAZ-SYSTEM and/or the appendix setting out the capacity period and level allocated to the User in the Auction is terminated after the commissioning of the Project, the value of the costs determined in accordance with clause 6.12 shall be reduced pro rata as at the moment of termination, in accordance with the following formula:

$$\mathbf{SK = K \times (1 - R/Z)}$$

where:

SK — adjusted value of expenditures incurred by GAZ-SYSTEM in Project implementation and costs of Project implementation that the System User is obliged to pay (in PLN);

K — 100% of the expenditures toward the implementation and costs of implementation of the Project by GAZ-SYSTEM that the System User is obliged to pay (in PLN);

R — sum of capacity allocated to the System User and consumed during the period from Project commissioning to the submission of termination notice by the System User;

Z — sum of capacity (contracted capacity) allocated to the System User in the binding phase of incremental capacity allocation.

- 6.15. GAZ-SYSTEM shall have the right to draw from the amount of financial security submitted by the System User towards the reimbursement of costs.
- 6.16. If GAZ-SYSTEM's damage arising from the early termination by the System User of the transmission contract and/or the appendix setting out the capacity level and period allocated to the System User as a result of the Auction exceeds the value of the cost reimbursement due as calculated in accordance with the

provisions of clauses 6.11. to 6.14., GAZ-SYSTEM shall have the right to claim compensation in excess of the value of the cost reimbursement due.

- 6.17. After the commissioning of the Project, the System User shall have the right to resell the capacity acquired in the Auction, on terms set forth in the TNC, on condition that the buyer shall accede to the System User's rights and obligations set forth in this INC GT&C.