



AGGM Austrian Gas Grid Management AG

# **Market area manager's general terms and conditions for use of the online platform (MAM's GTC of portal use)**

**Version 5.0**

**Approved by Energie-Control Austria on [...]**

The market area manager shall be responsible for establishing and operating an online platform. This is to be used to provide internet services such as publications and other content relating to the market area East and market participants. The services and content in question are accessible via a link on the AGGM Austrian Gas Grid Management AG website.

## 1 Online platform and use

- 1.1 The online platform contains both a public and a restricted area.
- 1.2 Use of both the public and the restricted area is free of charge.
- 1.3 All users are free to access the public area of the site, subject to the terms and conditions of use of the AGGM Austrian Gas Grid Management AG website. The issuing of identification codes via the public area of the online platform is also subject to the provisions of these MAM's GTC of portal use.
- 1.4 Use of the restricted area is confined to users who have obtained access data when registering as balance group representative and have subsequently been authorised to use the restricted area by the company they represent (candidate balance group representative or balance group representative).
- 1.5 Access to the restricted area is subject to the submission of complete and correct information by way of the online form, and the acceptance of these MAM's GTC of portal use including the data protection regulations set out in section 7, expressed by clicking the relevant checkbox. In addition, the applicant must transmit company details by means of the commercial register to the market area manager.
- 1.6 Annex 1 of these MAM's GTC of portal use shows a list of data, containing all the information to be submitted by a visitor who wants to obtain access authorisation. Visitors must also state which of the following three forms of activity, i.e. transportation stages, they intend to engage in; where the form of activity can be extended and/or restricted at a later date:
  - a) Transmission only ("transmission" or "FL");
  - b) Transmission and distribution, excluding the supply of consumers excluding biogas injection to the grid, excluding injection/withdrawal at cross-border interconnection points into/out of the distribution area ("Local Border Traffic") ("transmission and distribution" or "FL+VL");
  - c) Transmission and distribution, including the supply of consumers and/or biogas injection to the grid, and/or injection/withdrawal at cross-border interconnection points into/out of the distribution area ("Local Border Traffic") ("transmission and distribution and supply of consumers and/or biogas injection and/or local border traffic" or "FL+VL+EKV/Bio").
- 1.7 Access may only be denied on reasonable grounds. Such grounds may include in particular, the provision of clearly implausible or false information by the visitor and relevant technical or security concerns with regard to use of the restricted area by the visitor.
- 1.8 Access shall be provided upon verification of the data submitted, but cannot be granted until the visitor has completed all of the mandatory fields in the online form.

## 2 Definitions and roles

- 2.1 “User” means a natural person who uses the portal and is authorised by the company represented by him/her to do so. Any information provided by the user shall be attributed to the company represented by him/her (candidate balance group representative and/or balance group representative).
- 2.2 “Applicant” means a user who already has a username and a password, and carries out the candidate balance group representative registration process on behalf of the company represented by him/her (balance group representative candidate and/or balance group representative). This person shall be designated by Annex 1 of the contract as the “main contact”.
- 2.3 “Visitor” means a natural person who uses the online services provided via the public area of the portal.
- 2.4 “Candidate balance group representative” means a legal entity applying for a licence from E-Control Austria.
- 2.5 “Balance group representative” means a legal person licensed by E-Control Austria to act as a balance group representative.
- 2.6 “Annex 1” means the list of data, containing all the information submitted by a visitor who wants to obtain access authorisation, without omissions, for processing. This constitutes an integral part of the MAM’s GTC of portal use.
- 2.7 “Public area of the portal” means the area of the platform containing in particular publications (especially of market data), EIC allocation, REMIT / Other MGM-Info, downloads of documents and further detailed information.
- 2.8 “Restricted area of the portal” means the area of the platform containing in particular services and functions for registration of balance group representatives, structuring of balance groups (establishment of balance groups and capacity allocation authorisations), and administration of master data and passwords.

### **3 Use of the public area of the online platform to issue identification codes**

- 3.1 It is the responsibility of the market area manager to manage the balance group system, and to assign a unique identification code to each balance group representative and balance group or sub balance account. The assignment of codes shall be performed by issuing EIC codes via the online platform, both for balance group representatives (X codes) and for balance groups or sub balance accounts (Y codes). To continue with the balance group representative registration process, every applicant must have a unique X code and at least one Y code.
- 3.2 The market area manager shall only be entitled to allocate X codes for Austrian companies pursuant to the guidelines of the Central Issuing Office. Non-Austrian companies must apply for an international X code at their respective responsible Local Issuing Office. With the approval of the Central Issuing Office, an X-identification can also be assigned to a non-Austrian company.

- 3.3 If a candidate balance group representative or balance group representative has already been issued with an international EIC X code or with a national EIC X code in case of an Austrian company, then the visitor/user/applicant shall be obliged to notify the market area manager of this code and to continue to use it in the market area East.
- 3.4 The market area manager shall issue unique Y codes for the various balance groups and sub balance accounts in response to applications made by way of the online platform for identification purposes. To obtain these codes, visitors (in case of subsequent changes or amendments users and applicants respectively), irrespective of their origin, must enter correct and complete information in the form provided on the online platform of the market area manager. The market area manager must be notified of changes in any information, for updating purposes, that was used to obtain codes.
- 3.5 Candidate balance group representatives and balance group representatives are obliged to identify balance group members which have contracts empowering such members to allocate capacity at entry and exit points by notifying the relevant X code per balance group and/or sub balance account. Candidate balance group representatives and balance group representatives may set up sub balance accounts for the first time in the course of registration on the online platform for the purpose of separate allocation of capacity at cross-border interconnection points on the transmission network. Candidate balance group representatives and balance group representatives expressly consent to the submission of this information to the transmission system operators, the distribution area manager, the balance group coordinator, the storage system operators, the production companies, and the operator of the virtual trading point and the gas exchange in the market area East.

## 4 Use of the restricted area of the online platform

- 4.1 For the duration of use of the restricted area of the online platform, applicants must ensure that they have the authorisations from their company (candidate balance group representative and/or balance group representative) required to use the services provided via the platform. Proof of this must, at the latest, be furnished by designating the applicant as the main contact (“admin”) and including his/her contact details as such in Annex I of the contract. Annex I is an integral part of the contract. Authorisation of the main contact to use the online platform on behalf of his/her company (candidate balance group representative and/or balance group representative) shall thus take place, at the latest, upon execution of the contract. If there are reasonable doubts as to the authorisation of the applicant prior to receipt of the duly signed contract, the market area manager is entitled to require submission of the necessary proof at an earlier time.
- 4.2 The appointment of a different main contact requires a duly signed request to this effect. The new main contact’s account shall be activated as soon as his/her authorisation has been verified. The main contact is entitled to change the other contacts in the restricted area of the online platform. None of the other master data held in the database after initial recording may be amended without notifying the market area manager in writing.
- 4.3 Applicants shall be solely responsible for the correctness of all data transmitted to the market area manager via the online platform. They must ensure that usernames and passwords are managed with special care, and that any abuse is prevented. Abuse must,

in particular, be prevented by safe keeping of user details in a secure location, by regularly changing the password, and by immediate reporting of loss of the data, etc. The main contact shall be fully liable for the consequences of the disclosure of the password and/or username.

- 4.4 In the event that an additional user account for the restricted area is to be set up, the data requested shall be submitted via the online platform. The provided application, which was forwarded to the additional user via online platform, must be duly signed and returned. The market area manager shall activate the additional account upon verification of the data contained in the application. Article 4.3 shall apply correspondingly to new users.
- 4.5 The applicant must ensure that their use of the restricted area of the online platform does not cause any damage to hardware and software, including the market area manager's website.
- 4.6 The user can administer his data, in particular but not limited to data, regarding balance groups, sub balance accounts and/or capacity allocation authorisations, within the restricted area. It must be noted that changes will come into effect on the next working day, at the earliest. New balance groups and/or sub balance accounts must be set up with a lead time of at least 3 working days.

## **5 Submission of the draft contracts to the applicant**

- 5.1 The contracts offered to candidate balance group representatives, and required by them to obtain approval for assuming the role of a balance group representative, are available for download in the restricted area of the market area manager's online platform and are also sent to candidates by e-mail.
- 5.2 Availability of the contract offered cannot be granted unless the applicant submits correct and complete information regarding the balance groups, sub balance accounts and capacity allocation authorisations by way of the online form. Changes and additions to balance groups, sub balance accounts and capacity allocation authorisation data must be made via the online platform.
- 5.3 In addition to the information on balance groups and sub balance accounts, applicants must also state the related identification codes and aliases, which are available from the public area of the online platform. Identification codes of the balance group members must be used in order to notify the market area manager of the capacity allocation authorisations.
- 5.4 As soon as the applicant has provided all the necessary information, the market area manager shall draw up the documents without delay, send these to the candidate balance group representatives and make them available for download on the online platform. These agreements are as follows:

- 5.4.1 Contract between the market area manager and the balance group representative on the basis of the approved general terms and conditions in accordance with section 16 of the Austrian Natural Gas Act 2011, as amended (“GWG”);
- 5.4.2 Contract between the operator of the virtual trading point and the balance group representative on the basis of the approved general terms and conditions in accordance with section 31 (3) GWG, concluded by the market area manager on behalf of and for the account of the operator of the virtual trading point;
- 5.4.3 In the event that the balance group representative also intends to operate in the distribution area, the contract between the balance group representative and the distribution area manager on the basis of the approved general terms and conditions in accordance with section 26 GWG, concluded by the market area manager on behalf of and for the account of the distribution area manager;
- 5.4.4 In the event that the balance group representative intends to supply consumers and/or inject gas from biogas plants to the grid and/or injection/withdrawal at cross-border interconnection points into/out of the distribution area (“Local Border Traffic”), the contract between the balance group coordinator and the balance group representative on the basis of the approved general terms and conditions in accordance with section 88 GWG, concluded by the market area manager on behalf of and for the account of the balance group coordinator (this contract will be drawn up within five days of the candidate balance group representative and/or balance group representative passing the credit check and depositing the collateral with the balance group coordinator);
- 5.5 If the data submitted by the applicant are already associated with other candidate balance group representatives and/or balance group representatives, the market area manager shall be entitled to require the applicant to correct the data, and to delay drawing up and sending the binding contracts until such corrections have been made.
- 5.6 The candidate balance group representative must sign the documents and return them to the market area manager within three months upon receipt of the documents or of notification that the documents are available for download on the online platform. Failure to do so shall entitle the market area manager to demand the return of the documents and to delete the data from the online platform.
- 5.7 The means of concluding these contracts shall be as follows: after the market area manager sends the relevant documents to the candidate balance group representative and/or balance group representative, the candidate balance group representative and/or balance group representative shall sign the documents and the market area manager shall accept them by his counter-signature. The parties authorising the market area manager to act on their behalf pursuant to section 19 Gas Market Model Ordinance, as amended (“GMMO-VO”) shall be notified of the delivery of the contracts, and the market area manager shall forward the contracts to such parties upon receipt of executed copies. These arrangements shall not apply to the contract document with the balance group coordinator, which the market area manager will only forward within five days if the balance group coordinator has received a positive credit check and deposited collateral, and has informed the market area manager of same. The conclusion of the contract with the balance group coordinator is carried out after the signature of the candidate balance

group representative and/or balance group representative and acceptance by the market area manager by counter-signature.

## 6 System security, duration of access to the portal

- 6.1 Applicants shall normally be granted access to the portal for an indefinite period, in absence of express provisions to the contrary in these MAM's GTC of portal use.
- 6.2 The market area manager is entitled to suspend operation of, or permanently shut down, the restricted area where essential for technical and/or legal reasons (e.g. for maintenance). In the event of a foreseeable interruption of service, the market area manager shall announce this, and give notice of same to all applicants and/or users. The market area manager shall bear no liability for any damages arising from interruptions or faults in the operation of the restricted area, which are beyond their control, or from incomplete, delayed or otherwise defective data transmission.

## 7 Data processing, data transfer

- 7.1 The market area manager shall take the necessary security precautions to protect against unauthorised access to and the loss, deletion, falsification or manipulation of transmitted data, and to ensure that data are transmitted solely to authorised parties. The transmitted data include data provided in accordance with the GWG, the GMMO-VO, the Gas Market Code (especially Chapter 2) and/or Annex 1, required by the market area manager to perform their duties in respect to the online platform.
- 7.2 The market area manager is entitled to process and use all data transmitted to them, provided that such data are required for registration for and use of the restricted area, and for securing balance group representatives' approvals.
- 7.3 Use of the restricted area of the online platform is conditional on completion of the relevant form and provision of the required personal data, as well as express acceptance of the data privacy policy by candidate balance group representatives and/or balance group representatives.
- 7.4 The candidate balance group representative and/or balance group representative expressly agrees that their data may be forwarded as required to the operator of the virtual trading point and the gas exchange, the distribution area manager, the balance group coordinator, the storage system operators, the production companies, the transmission system operators and, where applicable, those market participants specified in the Gas Market Code.
- 7.5 The parties shall keep confidential all business and company secrets obtained in the course of their activities, and may not disclose such information to third parties. This does not apply to the transmission of information and data pursuant to article 7.4. above to the regulatory authority, or to the market area manager's statutory disclosure duties.
- 7.6 The candidate balance group representative and/or balance group representative shall be obliged to not provide the market area manager with any inside information as defined by section 2 (1) Regulation (EU) No 1227/2011 (REMIT), OJ L 326, published on 8 December 2011. In the event that information is subject to the obligation to publish

inside information pursuant to section 4 REMIT, the candidate balance group representative and/or balance group representative must ensure that such information is publicly disclosed in an effective and timely manner prior to its transmission to the market area manager.

## 8 Liability

- 8.1 Each party shall be solely liable for fulfilling the obligations arising from these MAM's GTC of portal use, unless otherwise stated by these MAM's GTC of portal use.
- 8.2 Each party shall be liable to the other party in accordance with the general provisions of Tort Law. If according to such provisions liability depends on fault, liability shall be restricted to cases of wilful intent or gross negligence, with the exception of personal injury and claims under section 33 (6) GWG.
- 8.3 In the event that liability rests with either of the parties, liability for consequential damages, lost profits and indirect damages shall be excluded to the extent permitted by law. The liability of the parties shall be limited to EUR 100,000 for all claims filed within a given calendar year.
- 8.4 The candidate balance group representative and/or balance group representative is, under all circumstances, liable to the market area manager on behalf of all members of their balance group(s).
- 8.5 The candidate balance group representative and/or balance group representative shall indemnify and hold harmless the market area manager for all third party claims asserted against the market area manager, arising from actions for which the candidate balance group representative and/or balance group representative and/or the balance group members are responsible.
- 8.6 Should these MAM's GTC of portal use contain provisions that affect the mutual relationships of market participants (but not their direct relationships with the market area manager), such provisions shall only influence the contractual relationship with the market area manager to the extent that the latter assumes that the market participants have concluded the related agreements among themselves and are complying with them. Any liability of the market area manager arising from such provisions is excluded in all cases.
- 8.7 The market area manager shall bear no liability for damages arising from the misuse of usernames and/or passwords, and/or from the submission of erroneous information in the restricted area. The candidate balance group representative and/or balance group representative shall indemnify and hold harmless the market area manager for all damages incurred by the market area manager and/or third parties as a result.
- 8.8 The market area manager shall take all technically and commercially appropriate precautions to maintain uninterrupted access to the services delivered via the online platform, which is accessible via the AGGM Austrian Gas Grid Management AG website. With the exception of wilful misconduct and gross negligence, the market area manager shall not be liable for ensuring that users enjoy access in accordance with these MAM's GTC of portal use.

## 9 Blocking/Setting inactive

- 9.1 Once a password has been incorrectly entered three times, access to the restricted area will be blocked automatically.
- 9.2 The market area manager may reactivate the account upon receiving proof of authorisation to access the restricted area.
- 9.3 Should the market area manager possess and/or receive information from market participants to the effect that a candidate balance group representative and/or balance group representative is in breach of statutory and/or contractual obligations associated with their activities, the market area manager is entitled to block the user of a balance group representative with immediate effect.
- 9.4 The market area manager shall be entitled to set the applicant/candidate balance group representative inactive, if the applicant/candidate balance group representative does not conduct any activity, over a period of 6 months, to conclude an already started registration. The market area manager must notify the applicant / candidate balance group representative of these consequences before setting them inactive.

## 10 Applicable law

- 10.1 The legal relationship between the market area manager and the user / applicants / candidate balance group representative / balance group representative arising from these MAM's GTC of portal use shall be subject to Austrian law (except for the conflict of law rules and the UN Convention on Contracts for the International Sale of Goods).
- 10.2 The provisions of the GWG, the E-Control Act, the GMMO-VO and the Gas Market Code, all as amended, shall apply in particular.
- 10.3 The market area manager or the balance group representative may submit disputes or complaints to E-Control without prejudice to the competence of the arbitration court. Dispute resolution by E-Control will be in accordance with section 26 E-Control Act.

## 11 Miscellaneous

- 11.1 Termination: Users may give written notice of termination of their access to the restricted area at any time.
- 11.2 In the event that any provision of the contract and/or these MAM's GTC of portal use should be ineffective or become invalid, the effectiveness and validity of the remaining provisions shall remain unaffected. The parties shall endeavour to replace any provision which is invalid or null and void by a new and valid provision, which approximates most closely to the lapsed provision's economic, technical and/or legal purpose.
- 11.3 The contract, these MAM's GTC of portal use, and/or the general terms and conditions governing the legal relationship of the market area manager with the balance group representatives (GTC MAM-BGR) are available in German and English. Any discrepancies in content are unintentional. The business language is German. The German version is binding only. In the event of any conflicts the German versions of the texts shall prevail.

The English translations are not binding and are for information purposes only. All liability of the market area manager for any deviations in content or mistranslations is excluded. With regards to other market participants and/or contractual partners, the provisions of their respective contracts and/or general terms and conditions shall apply.

## **12 Amendments to the MAM's GTC of portal use**

- 12.1 In the event that E-Control approves amended MAM's GTC of portal use subsequent to the acceptance of these MAM's GTC of portal use, the market area manager shall notify the candidate balance group representatives/balance group representatives thereof immediately, and shall provide the candidate balance group representatives and/or balance group representatives with access to the amended MAM's GTC of portal use in an appropriate form (including online).
- 12.2 Unless the candidate balance group representative and/or balance group representative concerned objects to the amended MAM's GTC of portal use in writing within four weeks of notification – timeliness to be determined by the date of receipt of such objection by the market area manager – the contract in question shall be subject to the amended MAM's GTC of portal use. The silence of the candidate balance group representative and/or balance group representative shall be deemed to be consent. If a candidate balance group representative and/or balance group representative objects to the application of the amended MAM's GTC of portal use, the market area manager shall be entitled to terminate the contract, subject to written notice of one month. The market area manager is obliged to inform the candidate balance group representative and/or balance group representative of the consequences of the objection expressly and in writing.

## **13 Entry into force**

These GTC MAM-BGR shall enter into force on 1 June 2017, at 6:00 a.m., and fully replace former GTC MAM-BGR.

**Annex 1**

**Registration details**

**Company information**

<b><u>Company</u></b>	
▪ EIC code	
▪ AT number (optional)	
▪ Display name (EIC alias)	
▪ Contract type	
▪ Language	
▪ Registered company name	
▪ Company reg. no.	
▪ Company register court	
▪ Website	
▪ Street	
▪ Street number	
▪ Postcode	
▪ Town/city	
▪ State/Country	
▪ Tel.	
▪ Fax	
▪ Email	
<b><u>Tax details</u></b>	
▪ VAT no.	
▪ Tax number	

<b><u>Invoice address (if different)</u></b>	
▪ Company name	
▪ Department	
▪ Street	
▪ Street number	
▪ Postcode	
▪ Town/city	
▪ State/Country	
▪ Tel.	
▪ Fax	
▪ Email	
<b><u>Bank details</u></b>	
▪ Name of bank	
▪ Address	
▪ Postcode	
▪ Town/city	
▪ State/Country	
▪ IBAN	
▪ BIC	

## Contact Person

<b>Main Contact<sup>1</sup></b>	
▪ Department	
▪ Form of address (Mr/Ms)	
▪ Title	
▪ First name	
▪ Surname	
▪ Position	
▪ Email	
▪ Office tel. no.	
▪ Mobile	
▪ Tel. no. of deputy	
▪ Fax	
▪ Language	
▪ Username	
▪ Password	
▪ Re-enter password	
▪ Security question	
▪ Answer to security question	

<sup>1</sup> Applicant authorised to supervise the input of all data on the online platform. If 24-hour, dispatching, administrative, IT and billing contacts are not specified, it will be assumed that the main contact person will also perform these functions.

<b><u>24-hour contact, dispatching</u></b> <sup>2</sup>	
▪ Department	
▪ Form of address (Mr/Ms)	
▪ Title	
▪ First name	
▪ Surname	
▪ Position	
▪ Email	
▪ Office telephone no.	
▪ Mobile	
▪ Tel. no. of deputy	
▪ Fax	
<b><u>Administrative contact person (particularly regarding contractual matters)</u></b> <sup>3</sup>	
▪ Department	
▪ Form of address (Mr/Ms)	
▪ Title	
▪ First name	
▪ Surname	
▪ Position	
▪ Email	
▪ Office telephone no.	
▪ Mobile	
▪ Tel. no. of deputy	
▪ Fax	
<b><u>IT contact person</u></b> <sup>4</sup>	

<sup>2</sup> Please provide the contact details of the office at your company that is reachable 24/7 and can normally provide information on all matters or pass on enquiries to the relevant offices in a timely manner.

<sup>3</sup> Please provide the contact details of the office at your company that is responsible for concluding contracts and can provide information on all other contractual matters.

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▪ Department	
▪ Form of address (Mr/Ms)	
▪ Title	
▪ First name	
▪ Surname	
▪ Position	
▪ Email	
▪ Office telephone no.	
▪ Mobile	
▪ Tel. no. of deputy	
▪ Fax	

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<sup>4</sup> Please provide the contact details of the office at your company that is the point of contact for the necessary communication tests, rectification of technical faults and any other configuration issues.

<b>Billing contact person<sup>5</sup></b>	
▪ Department	
▪ Form of address (Mr/Ms)	
▪ Title	
▪ First name	
▪ Surname	
▪ Position	
▪ Email	
▪ Office telephone no.	
▪ Mobile	
▪ Tel. no. of deputy	
▪ Fax	

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<sup>5</sup> Please provide the contact details of the office at your company (back office) that is the point of contact for issues relating to billing and other financial matters.