**BALANCING SERVICES CONTRACT**

**No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

concluded in Warsaw on the day of its signing by both Parties

by and between:

Operator Gazociągów Przesyłowych GAZ-SYSTEM Spółka Akcyjna, having its registered office in Warsaw at ul. Mszczonowska 4, 02-337 Warszawa, entered into the Register of Entrepreneurs of the National Court Register under the number KRS 0000264771 kept by the District Court for the Capital City of Warsaw, 12th Commercial Division, NIP (TIN): 527-243-20-41;   
REGON (Company Registration No.): 015716698, having share capital of PLN 8,877,190, 842.00 paid in full,

hereinafter referred to as the "**Contracting Entity**", represented by:

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and

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hereinafter referred to as the "**Contractor**", represented by:

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hereinafter referred to as the “Contract”.



**General provisions and Subject of the Contract,**

1. The Contracting Entity hereby declares that the Contract was concluded as a result of the tender procedure for balancing services, referred to in Article 8 of Commission Regulation (EU) No. 312/2014 of 26 March 2014, establishing a Network Code on Gas Balancing of Transmission Networks OJ UE L 91/15 of 27 March 2014, hereinafter: “NC BAL”).
2. The Subject of the Contract consists of the provision of the following balancing services to the Contracting Entity: (i) readiness to deliver Gaseous Fuel to Branice Entry Point (ID 372414) or (ii) delivery and sale to the Contracting Entity by the Contractor of   
   high-methane (group E) Gaseous Fuel at Branice Entry Point (ID 372414) in cases when none of the entities using the Contractual Capacity (Capacity) of Branice Entry Point delivers Gaseous Fuel to the transmission system.
3. The Contractor undertakes to deliver and sell to the Contracting Entity the Gaseous Fuel in quantity ensuring the balance of Gaseous Fuel volumes received within the transmission system area supplied from Branice Entry Point (ID 372414).
4. The Contractor undertakes to enter into an appropriate contract to ensure the contractual capacity in the gas system supplying Branice Entry Point (ID 372414) (to the extent necessary for the performance of the Contract), unless the Contractor’s supplier is a party to such a contract (the Contractor’s supplier is obliged to provide services to the Contractor – to the extent necessary for the performance of the Contract). The Contractor shall demonstrate to the Contracting Entity one of the above circumstances (i.e. conclusion of the contract on its own or conclusion of the contract by the Contractor’s supplier) by presenting a relevant written statement – no later than by 30 September 2024.
5. The Contractor hereby declares that the Contractor holds all permits, consents, licences and contracts required by law for conducting business activity within the scope necessary for the performance of this Contract.
6. Any capitalised terms in the Contract shall have the meaning given to them in the applicable Transmission Network Code applied by the Contracting Entity.

Contract performance

1. The Contractor undertakes to deliver the Gaseous Fuel to Branice Entry Point (ID 372414) on individual Gas Days in the absence of supply of Gaseous Fuel to this point on a given Gas Day by a Shipper (hereinafter the “Shipper”), i.e., in the absence of a Shipper’s Nomination at Branice Entry Point (ID 372414).
2. The Parties jointly agree that in the case of deliveries of Gaseous Fuel by the Contractor in accordance with section 1, the title to the Gaseous Fuel shall pass on to the Contracting Entity at the border between the Republic of Poland and the Czech Republic.
3. The Contracting Entity shall maintain the mandatory stocks of natural gas, according to the Act on stocks of crude oil, petroleum products and natural gas and on the procedures to be applied in the event of threat to national fuel security or disruptions on the petroleum market (Journal of Laws of 2023, item 1650, as amended) in quantities resulting from the volume of Gaseous Fuel delivered by the Contractor to Branice entry point (ID 372414) under this Contract.
4. For Gas Days on which the Contractor delivers Gaseous Fuel to Branice Entry Point (ID 372414) in accordance with section 1, the Contracting Entity shall provide the Contractor with publicly available metering data.
5. In case when Gaseous Fuel is delivered to Branice Entry Point (ID 372414) by the Shipper, the Contractor shall not be obliged hereunder to deliver Gaseous Fuel to Branice Entry Point (ID 372414).
6. The Contracting Entity shall provide the Contractor with publicly available information on the level of the Capacity utilisation at Branice Entry Point (ID 372414).
7. The Contracting Entity shall inform the Contractor by 16:30 on the Shipper’s submission of a Nomination for the next Gas Day. Such information shall concern only the fact of submitting the Nomination to the Contracting Entity. The information shall not contain data regarding the entities submitting the Nomination or the quantities of Gaseous Fuel. The Contracting Entity shall also inform the Contractor about the submission of a   
   Re-nomination by the Shipper for a given Gas Day immediately after the confirmation of such a Re-nomination.
8. The readings from the fiscal metering systems used for settlements under this Contract shall be made in the same periods as readings for settlements of the transmission service performed by the Contracting Entity, i.e. the Contracting Entity shall provide the Contractor with the metering data no later than on the tenth Business Day following the end of the month to be settled.
9. The Contract shall be performed in accordance with the principles set out in Article 8 of NC BAL.
10. The Contractor shall be obliged to inform the Contracting Entity about the occurrence of a situation that prevents (or may prevent) the performance hereof in whole or in part, including in particular:
    1. events in the distribution system on the Czech side that prevent (or may prevent) the delivery of Gaseous Fuel to Branice Entry Point in accordance hereof;
    2. interruptions and restrictions in the supply of Gaseous Fuel to Branice Entry Point

– immediately, no later than within 12 hours from the occurrence of such a situation. Such information shall be provided by phone and via e-mail to the persons indicated in § 11(5).

1. In the event referred to in section 10, the Contractor shall be obliged to take all actions for the proper performance of the Contract. If the Contractor is unable to properly perform the Contract, the Contractor shall:
   1. immediately inform the Contracting Entity about the period in which the Contractor is going to be unable to properly perform the Contract;
   2. be obliged to cover the costs that the Contracting Entity is going to incur in order to provide high-methane Gaseous Fuel (group E) at Branice Entry Point during the period in which the Contractor is unable to perform the Contract properly, unless the Parties agree on a different method of cost settlement.

Basic rights and obligations of the Parties regarding sale of Gaseous Fuel

1. In consideration of the Subject of the Contract and the remuneration specified in § 4(1), the Contractor undertakes, in particular, to:
   1. sell Gaseous Fuel to the Contracting Entity under the terms and conditions of this Contract;
   2. transfer the title to Gaseous Fuel onto the Contracting Entity at Branice Entry Point (ID 372414);
   3. remain ready to deliver Gaseous Fuel to Branice Entry Point (ID 372414);
   4. settle the sale of Gaseous Fuel and keep records of payments of the amounts due ensuring the correctness of the settlements.
2. Under this Contract, the Contracting Entity undertakes to:
   1. off-take Gaseous Fuel from the Contractor in accordance with the terms and conditions of this Contract and the applicable law;
   2. timely pay amounts due for (i) the purchased Gaseous Fuel and (ii) Contractor’s readiness to deliver Gaseous Fuel to the Entry Point (ID 372414).

**Remuneration and Terms of payment**

1. The remuneration due to the Contractor shall be determined as follows:
   1. on Gas Days, when the Contractor supplies Gaseous Fuel to Branice Entry Point (ID 372414), the remuneration shall be determined based on the quantity of Gaseous Fuel sold (delivered) by the Contractor based on the ‘remuneration unit price’ for each 1 (one) kWh of Gaseous Fuel off-taken by the Contracting Entity, which shall be determined according to the following formula:

P= TGE\_DA + … PLN/kWh,

where: TGE\_DA is the average TGEgasDA (TGE Day Ahead) index for the delivery month as published on the TGE ([www.tge.pl](http://www.tge.pl)) website, weighted by daily delivery volumes, expressed in PLN/kWh,

The remuneration calculated according to the formula above does not include the VAT.

The methodology setting the remuneration has been established in accordance with the Contractor’s tender dated ……………………….…… (**Gaseous Fuel Unit Price**), subject to item 1.3;

* 1. on Gas Days, when the Contractor does not supply Gaseous Fuel to Branice Entry Point (ID 372414), the remuneration for the readiness shall be the net amount of PLN ……………………….…… for each Gas Day during the term of the Contract, on which the Contractor does not supply Gaseous Fuel to Branice Entry Point (ID 372414) because of the deliveries provided by the Shipper (**Price for Readiness to Perform the Subject of the Contract**), subject to item 1.3;
  2. on Gas Days, when the Contractor, acting as a Shipper, submits a Nomination for Branice Entry Point (ID 372414), the Contractor shall not be entitled to the remuneration specified in items 1.1 and 1.2.
  3. In case of no publication of the TGE\_DA index, the last published value of TGE\_DA is used.

1. The prices set out in sections 1(1.1) and 1(1.2) shall include all costs and components related to the Contract performance and shall remain unchanged throughout the duration of the Contract, subject to section 6.
2. The remuneration due to the Contractor, referred to in section 1(1.1), shall be calculated as the product of the remuneration unit price specified in section 1(1.1) and the quantity of the off-taken (delivered) Gaseous Fuel based on the actual readings from the fiscal metering system. The quantity of Gaseous Fuel sold by the Contractor to the Contracting Entity shall be understood as the quantity of Gaseous Fuel measured by the metering system installed at Branice Entry Point (ID 372414) on the Gas Day on which the delivery to the Contracting Entity takes place.
3. The remuneration calculated in accordance with section 1 shall be increased by the tax on goods and services (VAT) at the rate compliant with the applicable provisions in force on the day of the invoice issue date.
4. The sale of Gaseous Fuel shall be subject to excise duty in accordance with the applicable law. In the event of a change to the excise duty rate or to the method of its calculation, which affects the price specified in section 1(1.1), the Contractor shall have the right to adjust the price specified in section 1(1.1) to the extent arising from the change of the excise duty rate or the method of its calculation.
5. The basis for issuing an invoice for a given settlement month shall be the actual measured quantity of Gaseous Fuel based on the actual readings from the fiscal metering system.
6. The invoice shall be issued to: Operator Gazociągów Przesyłowych GAZ–SYSTEM S.A.   
   ul. Mszczonowska 4, 02-337 Warszawa, Poland. In the invoice description, reference shall be made to this Contract number and the order number provided by the Contracting Entity.
7. Address for delivery of traditional invoices (hard copy): Operator Gazociągów Przesyłowych GAZ–SYSTEM S.A., ul. Mszczonowska 4, 02-337 Warszawa, Poland. Alternatively, the invoice may be submitted in the electronic form specified in section 9.
8. The Contracting Entity agrees to receive invoices under this Contract in electronic form issued and sent in accordance with the requirements of the Act of 11 March 2004 on tax on goods and services and under the following conditions:
   1. the invoice shall be sent e-mail as an attachment,
   2. the attachment (being an invoice) shall be a file in PDF format (messages with files in other formats shall be rejected),
   3. the only e-mail address of the Contracting Entity dedicated to receiving electronic invoices is: [faktury.gazsystem.cen@gaz-system.pl](mailto:faktury.gazsystem.cen@gaz-system.pl),
   4. the only e-mail address of the Contractor dedicated to sending electronic invoices is: …………………………. . Messages containing electronic invoices sent to the Contracting Entity's e-mail address from other e-mail addresses shall be rejected,
   5. the sender's domain shall enjoy a positive reputation. The domain’s negative reputation shall result in the messages therefrom being blocked.
9. Only messages meeting the above criteria shall be considered effectively delivered. Change of the e-mail address provided in section 9(4) shall be made in writing bearing signatures of the persons authorised to represent the Contractor.
10. The above consent may be withdrawn in writing signed by authorized representatives of the Contracting Entity and becomes effective 7 days following the date of receipt by the Contractor of the notice on the consent withdrawal.
11. The Contracting Entity declares that, in accordance with the provisions of the   
    Act of 9 November 2018 on electronic invoicing in public procurement, licences for construction works and services and public-private partnership, it has an account established on the Electronic Invoicing Platform, allowing it to receive electronic invoices in a structured form, and the Contracting Entity’s identifier on the said Platform (PEF Identifier) is: NIP 5272432041.
12. An invoice that has been issued incorrectly or not in compliance with the provisions of the Contract shall be corrected by the Contractor with a correcting invoice within 7 days of the Contracting Entity's request for correction. The payment period shall commence on the date of receipt of the proper corrective invoice.
13. The payment period shall be 30 days from the date of receipt by the Contracting Entity of the correctly issued invoice.
14. For the purpose of mutual settlements, subject to the sections below, the Parties provide the following bank account details:
    * 1. Contractor

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b) Contracting Entity

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 3 | 1 | 1 | 1 | 4 | 0 | 1 | 9 | 7 | 7 | 0 | 0 | 0 | 0 | 5 | 8 | 0 | 3 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 1 |

1. Should the bank account details referred in section 15 change, the Party concerned is obliged to immediately notify the other Party thereof. This change does not constitute an amendment to the Contract but in order to be effective, it shall be made in writing and signed by persons authorised to represent the Party.
2. The condition for making payments to the bank account specified in section 15 is the registration of the bank account details on the list of VAT taxable persons referred to in Article 96b(1) of the Act of 11 March 2004 on the tax on goods and services (hereinafter: the List), unless the Party is not a registered VAT taxable person.
3. If, on the date of payment, the bank account referred to in section 15 is not registered on the List, the Party making the payment shall be entitled to transfer such payment to any other payment beneficiary’s bank account registered on the List while notifying the Party of such a mode of payment execution.
4. If, on the day of payment, the bank account details referred to in section 15 are not registered on the List and if there is no other bank account provided on the List to which the payment could be transferred, the Party making the payment shall make the payment to the bank account indicated in section 15 and immediately submit the applicable notification referred to in Article 117ba §3 of the Act of 29 August 1997 – the Tax Ordinance.
5. The day on which the Contracting Entity’s bank account is debited shall be deemed to be the payment date.
6. The Contractor agrees that the Contracting Entity may set off any receivables to which the Contracting Entity is entitled against the Contractor's receivables, regardless of the date on which each of the receivables arose and became due.
7. The Contracting Entity declares that it is a VAT payer and has the following tax identification number (NIP): 527-243-20-41.
8. The Contractor declares that it is a VAT payer and has the following tax identification number (NIP): ………………………………….. .
9. The Contractor may not transfer (assign) all or part of remuneration due to it from the Contracting Entity for the performance of the Subject of the Contract to third parties or entities without a prior written consent of the Contracting Entity specifying the terms and conditions of such an assignment under pain of nullity. The Contracting Entity shall have the right to refuse its consent to such an assignment without giving reasons. The Contractor shall immediately notify the Contracting Entity in writing of such intended assignment.
10. The Contracting Entity declares that it has the status of a large entrepreneur within the meaning of the provisions of the Act of 8 March 2013 on counteracting excessive delays in commercial transactions (Journal of Laws of 2023 , item 1790, as amended);
11. Payment of the remuneration by the Contracting Entity shall not be construed as the Contracting Entity’s waiver of any of its rights or claims under the Contract.
12. The Parties do not envisage any advance payments in consideration of the performance of the Contract.

Term and Termination

1. The Contract shall become effective on 1 October 2024, 06:00 hours.
2. The Contract shall remain binding until 1 October 2025, 06:00 hours.
3. Either Party shall have the right, subject to section 4, to terminate the Contract with immediate effect on the day of service of the notification, in the following cases:
   1. a material breach of the terms and conditions of the Contract by either Party, whereby such termination must be preceded by written notification providing:
      1. statement of the cause of the breach of the Contract;
      2. relevant details of the breach;
      3. a demand to remedy the said breaches within 14 days of receipt of the notification;

and the other Party has not remedied the said breaches within the specified period.

* 1. the Party’s failure to comply with a final decision of a common court or a final decision issued by an administrative authority, including the President of ERO, to the extent related to the performance of the Contract;
  2. loss of licences, permits, consents required to perform business activities under the Contract;
  3. transfer of rights and obligations under the Contract contrary to the provisions of   
     § 4(24) hereof.

1. The Party that, through its act or omission, caused the circumstances mentioned herein shall not have the right, referred to in section 3, to terminate the Contract.
2. In the event that the Contractor's remuneration reaches PLN .................... net, the Contracting Entity has the right to terminate the Contract, subject to a 30-day notice period, effective at the end of the month.
3. The notification of termination of the Contract referred to in sections 3 and 5 shall be made by serving on the other Party a written statement with acknowledgement of receipt under pain of nullity.
4. Irrespective of the rights specified in section 3, the Parties shall have the right to charge contractual penalties under the terms and conditions specified in § 7.

Confidentiality and Cybersecurity

1. The Contracting Entity undertakes to provide the Contractor with all information necessary for the performance of the Contract.
2. The Contractor undertakes to keep all information acquired in connection with the conclusion or performance of the Contract confidential (hereinafter referred to as “Protected Information”) and not to disclose such information to any third party; the Contractor also commits to protect such information against unauthorised disclosure, sharing or loss throughout the entire Contract term as well as for 10 years after its completion, termination, expiry or after withdrawal from it by either Party. The obligation shall apply to all information, regardless of whether it was obtained directly from the other Party or through third parties acting on behalf of the Parties.
3. The Contract shall be open to the public to the extent specified by the Public Procurement Law of 11 September 2019 and shall be subject to disclosure under the rules set out in the provisions of the regulations on access to public information.
4. Protected Information may be used by the Contractor solely for the purpose of the Contract performance.
5. The Contractor’s obligations referred to in section 2 shall not apply to the following Protected Information:
   1. that is available to the public on the date on which it is provided to the Contractor or is made available to the public in a manner that is not in breach of the Contract;
   2. that the Contractor is obliged to provide under the generally applicable law, whereas in such a situation the Contractor shall promptly notify the Contracting Entity about the submitted request to provide the information, unless providing such notification is contrary to the generally applicable law.
6. In the course of performing the Contract, the Contracting Entity does not envisage the possibility of providing access to:
   1. information constituting company secret within the meaning of Article 11(2) of the Act of 16 April 1993 on combating unfair competition;
   2. classified information within the meaning of the Act of 5 August 2010 on protection of classified information.
7. The Contracting Entity reserves the right to make certain Protected Information available to the Contractor only for review at the registered office of the Contracting Entity without the possibility of making any copies thereof.
8. The Parties shall also be entitled to disclose the Protected Information when acting to comply with applicable law or in connection with pending court proceedings or at the request of authorised public authorities, including regulatory authorities (and in the course of proceedings before these authorities), provided that to the extent permitted by such provisions of law, each Party shall exercise reasonable efforts to prevent the disclosure of the Protected Information or to limit the extent of such disclosure as well as shall promptly notify the other Party of such disclosure, unless such information is prohibited by applicable law or results from the decision of the authority requesting the disclosure of the Protected Information.
9. The Protected Information may only be disclosed to those persons acting on behalf of the Contractor for whom it is indispensable for the purpose of the Contract performance.
10. The Contractor shall exercise due care in order to ensure compliance with the provisions of this clause by the Contractor, its employees or persons acting on its instruction or in its interest, regardless of the legal basis of the relationship between those persons and the Contractor. The Contractor shall be liable for actions and omissions of such persons as for its own actions or omissions.
11. In fulfilling the obligations set out in section 10, the Contractor commits in particular to instruct all persons who will directly participate in the performance of the Contract on behalf of the Contractor and will have access to Protected Information on the principles applicable to Protected Information and duly advise them on the purpose of their access.
12. Subject to other provisions of the Contract, the Contractor is allowed to provide Protected Information to its service providers (subcontractors) as necessary for the proper performance of the Contract, provided that each of the subcontractors is obligated in writing to maintain confidentiality under similar rules as specified herein. The provisions of sections 9, 10 and 11 shall apply respectively to subcontractors’ employees and persons acting on instruction or in the interest of the subcontractors regardless of the legal basis of their relationship with the subcontractor. The Contractor shall be liable for all actions and omissions of its subcontractors as for its own actions or omissions.
13. In the event of any disclosure in breach of the Contract, any loss or unauthorised sharing of Protected Information that was to be kept secret and protected, the Contractor shall promptly notify the Contracting Entity and undertake all necessary actions, in particular to collaborate with the Contracting Entity in order to minimise the extent of the breach and damage resulting from such disclosure, loss or sharing of Protected Information.
14. The Contracting Entity reserves the right to request the Contractor at any time to return the Protected Information provided by the Contracting Entity or developed by the Contractor in the course of performance of the Subject of the Contract. In such a case, the Contractor undertakes to return or destroy at its own expense any and all materials and carriers containing any Protected Information provided by the Contracting Entity or on its behalf remaining in the possession of the Contractor or third parties authorised to access such information in accordance with the provisions of this Contract, as well as to delete any Protected Information from hard drives or other devices, however, this provision shall not apply to creating and archiving back-up copies in the IT systems, provided that such copies are properly secured. Notwithstanding the above provisions, the Contractor shall have the right to retain copies of the Protected Information for its own purposes related to the performance of the Contract or for the purpose of defence against possible future claims, provided that the copies are properly secured in accordance with the provisions of this clause.
15. The Contractor undertakes to store and transmit all Protected Information in a manner that ensures appropriate security preventing its loss, disclosure or third-party access. Hard copy materials shall be stored in closed rooms and cabinets protected from unauthorised access.
16. Where appropriate, the Contracting Entity reserves the right to verify compliance in performing the obligations stipulated in this clause by auditing the Contractor in this regard. The Contracting Entity will notify the Contractor of the intention to carry out such audit at least 7 days in advance and will agree the audit date with the Contractor.
17. The Contractor performing tasks for the Contracting Entity while having access to the Contracting Entity's ICT systems or exchanging electronic correspondence with the Contracting Entity is obliged to report all observed or suspected incidents concerning the Contracting Entity's ICT environment which, when detected or reported, demonstrate the characteristics of a cybersecurity incident. A cybersecurity incident is defined as an event or series of events that has or may have an adverse impact on cybersecurity construed as the resilience of IT systems to actions that compromise confidentiality, integrity, availability and authenticity of the processed data or related services offered by these systems.
18. In the event of identification of circumstances referred to in section 17 or a probability of their occurrence, the Contractor shall immediately notify the Contracting Entity thereof through one of the following communication channels:
    1. by phone: +48 22 22 01 111 or +48 885 250 999;
    2. by e-mail at: [cert@gaz-system.pl](mailto:cert@gaz-system.pl);
    3. directly the Contracting Entity’s employees.
19. The Parties shall provide each other with all relevant and necessary information concerning the event referred to in section 17.

Contractual penalties

1. The Contracting Entity may demand that the Contractor pays a contractual penalty in the event of termination of this Contract by the Contracting Entity in accordance with § 5(3) hereof for reasons attributable to the Contractor, in the amount of PLN ……….......... /amount from § 5(5)/ (in words: ………………………………) less the value of the Contract completed to the date of delivery of the notice of termination.
2. The Contractor may demand that the Contracting Entity pays a contractual penalty in the event of termination of this Contract by the Contractor in accordance with § 5(3) hereof for reasons attributable to the Contracting Entity, in the amount of PLN ……….......... /amount from § 5(5)/ (in words: ………………………………) less the value of the Contract completed to the date of delivery of the notice of termination.
3. If the Contractor breaches the confidentiality referred to in § 6 hereof, the Contractor shall pay the Contracting Entity a contractual penalty in the amount PLN 50,000.00 (in words: fifty thousand) for each case of such breach.
4. In order to charge the Contractual Penalty referred to in this clause, the Parties shall issue debit notes taking into account that:
   1. The payment period for the contractual penalty accrued shall be fourteen (14) days of the debit note service date;
   2. The Contracting Entity shall have the right to deduct the contractual penalties from the remuneration due to the Contractor. The Contractor agrees that the Contracting Entity may deduct from the amount of the remuneration all receivables due to the Contracting Entity, regardless of the date of their accrual and due date;
   3. The Contracting Entity shall have the right to retain an adequate part of the remuneration due to the Contractor as security for contractual penalties due to the Contracting Entity;
   4. The Contracting Entity shall have the right to claim additional compensation, in excess of the amount of contractual penalties stipulated herein, under the general provisions of the Civil Code.
5. Notwithstanding the provisions of this clause, the Parties may claim damages under the general rules of the Civil Code.
6. The total amount of contractual penalties referred to in § 7(3),(4) and (5) the Contracting Entity is entitled to charge shall not exceed 20% of the remuneration referred to in § 5(5).

**Protecting national security and preventing aggression against Ukraine**

1. The Contractor represents and warrants that:
   1. it is not an entity in respect of which arise the circumstances referred to in Article 5k(1)(a)-(c) of the Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine as amended by Council Regulation (EU) 2022/576 of 8 April 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine;
   2. it is not included on the lists set out in the Council Regulation (EC) 765/2006 and Council Regulation (EU) 269/2014 nor included on the list on the basis of a decision on registering on the list determining the application of the measure referred to in Article 1(3) of the Act of 13 April 2022 on special solutions to prevent support for aggression against Ukraine and to protect national security;
   3. its beneficial owner, within the meaning of the Anti-Money Laundering and Countering the Financing of Terrorism Act of 1 March 2018, is not a person indicated on the lists set out in the Council Regulation (EC) 765/2006 and Council Regulation (EU) 269/2014 or included on the list or which has been such a beneficial owner since 24 February 2022, provided that such a person has been included on the list on the basis of a decision on registering on the list determining the application of the measure referred to in Article 1(3) of the Act of 13 April 2022 on special solutions to prevent support for aggression against Ukraine and to protect national security;
   4. its parent company, within the meaning of Article 3(1)(37) of the Polish Accountancy Act of 29 September 1994, is not an entity included on the lists set out in the Council Regulation (EC) 765/2006 and Council Regulation (EU) 269/2014 or included on the list or which has been such a parent company since 24 February 2022, provided that it has been included on the list on the basis of a decision on registering on the list determining the application of the measure referred to in Article 1(3) of the Act of 13 April 2022 on special solutions to prevent support for aggression against Ukraine and to protect national security;
   5. in the performance of the Contract it will not engage any subcontractors (including further subcontractors or suppliers) and will not rely on the capabilities or status of the entity making the resources available in respect of which arise the circumstances referred to in Article 5k(1)(a)-(c) of the Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine as amended by the Council Regulation (EU) 2022/576 of   
      8 April 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine).

The Contractor shall not resort to the assistance of subcontractors (including further subcontractors or suppliers) and rely on the capabilities or the status of the entity making the resources available if the circumstances and conditions arise as referred to in Article 5k(1) of the Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine as amended by Council Regulation (EU) 2022/576 of 8 April 2022 on amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, if more than 10% of the remuneration referred to in § 4(1) of the Contract is reserved or shall be reserved to such entities. Should the performance of the Subject of the Contract or a part thereof be entrusted to such a subcontractor, the Contractor shall be obliged to exclude such a subcontractor from the performance of the Subject of the Contract within the deadline indicated by the Contracting Entity and replace it with another subcontractor or perform the scope entrusted to such subcontractor by its own means and efforts.

1. The Contracting Entity shall be entitled to charge the Contractor the following contractual penalties:
   1. 2% of the remuneration referred to in § 5(5) for each case of occurrence of one of the circumstances referred to in section 1 with regard to the Contractor,
   2. 1% of the remuneration referred to in § 5(5) for each case where any of the circumstances referred to in section 1(1.1)-(1.4) apply with respect to the entity making the resources available,
   3. 1% of the remuneration referred to in § 5(5) for each case of entrusting by the Contractor the performance of the Subject of the Contract or a part thereof to a subcontractor (including a further subcontractor or supplier) to which the circumstances referred to in section 1(1.1)-(1.4) apply;
   4. 1% of the remuneration referred to in § 5(5) for each case of not excluding by the Contractor from the performance of the Subject of the Contract or a part thereof of a subcontractor (including a further subcontractor or supplier) to which the circumstances referred to in section 1(1.1)-(1.4) apply;
   5. 0.5% of the remuneration referred to in § 5(5) for each day of delay in excluding by the Contractor from the performance of the Subject of the Contract or a part thereof of a subcontractor (including further subcontractor or supplier) to which the circumstances referred to in section 1 apply.

To the contractual penalties listed in this section, the provisions of § 7 shall not apply and shall not be considered in determination of the total limit of contractual penalties.

1. The Contracting Entity shall have the right to withdraw from or terminate the Contract on the following grounds:
   1. should one of the circumstances referred to in section 1 apply to the Contractor;
   2. should the Contractor fail to exclude the subcontractor (including further subcontractor or supplier) from the performance of the Contract in the case referred to in section 2).

Subcontractors

1. The Contractor may subcontract parts of the Subject of the Contract to subcontractors, except when exclusion grounds indicated in Appendix 3 to the Contract apply to a given subcontractor.
2. The Contractor is obligated to organise, lead, supervise, secure and coordinate activities performed by subcontractors in a manner guaranteeing proper performance of the Subject of the Contract.
3. The Contractor shall be responsible and liable for the actions, omissions and negligence of the subcontractor, its agents and employees to the same extent as if they were the actions, omissions or negligence of the Contractor, its agents or employees.
4. The Contractor shall be responsible for timely and full payment of the remuneration due to the subcontractors.
5. During the performance of the Contract, the Contractor shall have the right to replace the subcontractor indicated in the Tender or to withdraw from entrusting part of the delivery to a subcontractor.
6. If the replacement or resignation from a subcontractor concerns an entity whose resources the Contractor relied on in order to prove that the Contractor meets the conditions for participation in the procedure, the Contractor shall be obliged to prove to the Contracting Entity that the proposed substitute subcontractor or the Contractor independently meets the conditions to a degree not inferior to that of the subcontractor whose resources the Contractor relied on during the contract award procedure.
7. In the case where the Contractor intends to entrust a subcontractor with the performance of a part of the Subject of the Contract or in the situation referred to in sections 5 or 6, the Contractor shall each time submit for the Contracting Entity’s approval, at least 5 business days before the entrustment or change, documents confirming that there are no grounds for exclusion indicated in Appendix 3 to the Contract and (if applicable) that the relevant conditions of participation in the procedure are met by the new entities or the Contractor alone. Lack of approval by the Contracting Entity, as referred to in the previous sentence, prevents the Contractor from entrusting effectively a part of the Subject of the Contract to a subcontractor or replacing a subcontractor or resigning from entrusting a part of the Subject of the Contract to a subcontractor, respectively. The assessment of the fulfilment of the conditions by the subcontractor or the Contractor alone shall take place as of the date on which the Contractor's request for changes in subcontracting was received by the Contracting Entity.
8. The Contractor shall bear sole responsibility set out in sections 3 and 4 for any subsequent subcontractor.

Amendments to the Contract

1. Any amendment to the provisions of the Contract shall be made in writing (annex) otherwise being null and void, subject to any other form of amendment provided for in the Contract.
2. In order to amend the Contract as requested by either Party, the requesting Party shall be obliged to submit to the other Party a written proposal of the amendment to the Contract together with justification thereof.
3. No written amendment (annex) to the Contract shall be required, except for the cases indicated in the preceding clauses herein, including:
   1. change of the Parties' representatives for the performance of the Contract;
   2. change of details related to the administrative and organisational support of the Contract;
   3. change of contact details or bank account details;
   4. change of registration data resulting from universal succession after one of the Parties to the Contract;
   5. changes in subcontracting referred to in § 9(5)-(7) of the Contract.
4. Unless the Contract provides otherwise, changes not requiring a written amendment (annex) to the Contract shall, in order to be effective, require a written (electronic) notification of the other Party under pain of nullity by persons authorised to represent the Party sent to the addresses indicated in § 11(5).

Final provisions, Notifications, Personal data protection

1. Any disputes that may arise in connection with the performance of the Contract shall be settled by the common court with jurisdiction over the Contracting Entity's registered office.
2. The Contract has been drawn up in Polish and English, in two (2) counterparts – one in each language version for each of the Parties. In the event of any discrepancy between the Polish and English versions of the Contract, the Parties shall be bound by the wording of the Contract drawn up in the Polish language. / to be included for a foreign Contractor
3. This Contract shall be governed by and construed in accordance with the Polish law.
4. In matters not regulated by this Contract, the following legal acts shall apply:

## Act of 10 April 1997 – *Energy Law* with its implementing regulations

## Act of 23 April 1964 – *Civil Code*

1. Subject to the Contract provisions specifying otherwise, all notifications, calls and correspondence related to the Contract shall be made by e-mail, registered letter or courier service between the Parties' representatives to the following addresses:
   1. The Contractor's representative in the performance of this Contract, including working contacts and exchange of Protected Information shall be:

…………………………., tel. ……………………., e-mail: ……………………….,

…………………………., tel. ……………………., e-mail: ……………………….,

* 1. The Contracting Entity's representative in the performance of this Contract, including working contacts and exchange of Protected Information shall be:

…………………………., tel. ……………………., e-mail: ……………………….

…………………………., tel. ……………………., e-mail: ………………………..

1. The Contractor shall fulfil, on behalf of the Contracting Entity, the information obligation under Article 14 (1)-(3) of the Regulation (EU) No 2016/679 of the European Parliament and the of Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), towards the persons indicated for business contacts, including persons referred to in section 5, by providing these persons with information according to the specimen constituting Appendix 3 to the Contract. This information is also available on the GAZ-SYSTEM website   
   https://www.gaz-system.pl/en/privacy-policy/purposes-of-and-legal-basis-for-processing.html

**Appendices**

1. The following Appendices shall constitute an integral part of Contract:
   1. Subject of the Contract (Appendix 1 to the Contract);
   2. Contractor’s Tender (Appendix 2 to the Contract);
   3. Grounds for exclusion of a subcontractor (Appendix 3 to the Contract);
   4. Information regarding protection of personal data of the persons designated as business contacts under agreements concluded with Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. (Appendix 4 to the Contract).

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Contracting Entity Contractor

*(dates and legible signatures)*