



THE BALTIC PIPE PROJECT

POLISH OS 2017 CAPACITY AGREEMENT

June 2017
(amended 7 July 2017)

entered into on in Warsaw, by and between :

..... having its registered office in entered into
..... kept by at number, with share
capital of,

represented by:

1.
2.

hereinafter referred to as the "System User"

and

Gas Transmission Operator GAZ-SYSTEM S.A. S.A. having its registered office in Warsaw, at Mszczonowska Street 4, entered into the Register of Entrepreneurs of the National Court Register kept by the District Court for the Capital City of Warsaw, 12th Commercial Department at number 0000264771, Tax Identification Number (NIP): 527-243-20-41; statistical number (REGON): 015716698, with the share capital of PLN 3 771 990 842 PLN, fully paid up, represented by:

1.
2.

hereinafter referred to as the "Transmission System Operator", „GAZ-SYSTEM S.A.” or “TSO”

both hereinafter referred to as "the Parties"

Whereas:

1. GAZ-SYSTEM S.A., together with the Danish transmission system operator, Energinet (hereinafter referred to as "Energinet") consider an implementation of an infrastructure project (hereinafter: Baltic Pipe) consisting of five components: (i) a Danish upstream tie-in from the Norwegian system in the North Sea to the Danish landing point (or the existing Danish infrastructure) (hereinafter: Norwegian Tie-In), (ii) expansion of the existing west-east capacity in the Danish onshore transmission system (hereinafter: Expansion of the Danish Transmission System), (iii) a compressor station Zealand located on the Danish shore (hereinafter: CS Zealand), (iv) an offshore transmission interconnector from Denmark to Poland with the onshore pipeline and the gas receiving terminal (hereinafter: Offshore Interconnector), and (v) expansion of GAZ-SYSTEM's S.A. owned Polish onshore transmission system (hereinafter: Expansion of the Polish transmission system) The objective of the Baltic Pipe Project is to connect the sources of gas extraction in Norway with the off-take of gas in Poland through the Danish offshore and onshore transmission grid and the subsea pipeline between Denmark and Poland;
2. one of the conditions for a positive investment decision and construction of the Baltic Pipe is the reservation by the system users of such amount of bundled capacity of a contractual point connecting the Polish and Danish transmission systems, in which the transmission is provided in both directions of the flow (hereinafter: Baltic Pipe Entry/Exit Point), which will justify incurring the high costs of building the new transmission infrastructure by GAZ-SYSTEM S.A. and Energinet;
3. the present agreement, in the form of a conditional capacity allocation and transmission ability allocation (PP/PZ) (hereinafter: Conditional PP/PZ) is concluded as a part of the Open Season 2017 jointly conducted by GAZ-SYSTEM S.A. and Energinet, in the course of which, to a Participant in the Open Season 2017, as a result of the submitted order, the bundled capacity of the Baltic Pipe Entry/Exit Point was allocated;
4. on the Parties concluded a transmission contract No. (hereinafter: "Transmission Agreement");
5. the Parties decided to conclude the Conditional PP/PZ taking into account the fact that on the basis of the commitments arising from the System User's Conditional PP/PZ, GAZ-SYSTEM S.A., has conducted an economic test of the investment's profitability and on such basis GAZ-SYSTEM S.A. made a decision to implement and bear the costs of planning and constructing the Baltic Pipe;
6. due to the considerable costs of implementation of the Baltic Pipe Project, i.e. the costs of design, construction, commissioning and commencement of operation, the purpose of the Conditional PP/PZ is to cover of those costs from the transmission fees paid by the System User in exchange for gas transmission services provided by GAZ-SYSTEM S.A. in the Baltic Pipe Entry/Exit Point. The Parties are aware that the GAZ-SYSTEM S.A. in case of early termination of the Conditional PP/PZ by the System User, GAZ-SYSTEM S.A. is provided with the right of reimbursement of expenses incurred for the implementation of the Baltic Pipe Project;
7. according to GAZ-SYSTEM S.A. intentions, the commencement of providing gas transmission services will begin after the Baltic Pipe is built and commissioned;

the Conditional PP/PZ was concluded with the following wording:

1 DEFINITIONS

- 1.1 The Parties declare that, unless otherwise defined in the Conditional PP/PZ, any terms defined in the Transmission Agreement, Tariff of GAZ-SYSTEM S.A., TNC of GAZ-SYSTEM S.A. or in the Open Season 2017 Rules including the Appendices (hereinafter: Rules) have the same meaning in the Conditional PP/PZ.

2 REPRESENTATIONS AND WARRANTIES

- 2.1 Each Party hereby represents and warrants to the other Party that:

- 2.1.1 it has the ability and authority to conclude the Conditional PP/PZ;
 - 2.1.2 it has undertaken all the actions required by law in order to conclude this Conditional PP/PZ;
 - 2.1.3 once the Conditional PP/PZ has been concluded, it shall constitute an effective and binding source of obligations of the Party which shall be fully enforceable in relation thereto;
 - 2.1.4 neither the conclusion or the performance of the Conditional PP/PZ by the Party shall constitute any breach of any of its obligations (contractual or any other nature), binding provisions of the law, rulings or administrative decisions binding upon the Party. Any actions in pursuance of the provisions of the Conditional PP/PZ shall not constitute a breach of the provisions of any other contracts, agreements, settlements, decrees, decisions or any other regulations binding upon the Party.
- 2.2 The Parties declare, that at the moment of concluding the Conditional PP/PZ, the Order to Proceed submitted to GAZ-SYSTEM S.A. by the System Users in the Open Season 2017 expires.

3 THE SUBJECT OF THE CONDITIONAL PP/PZ

- 3.1 The Conditional PP/PZ is an integral part of the Transmission Agreement, it constitutes the capacity (contractual capacity) allocation of the Baltic Pipe Entry/Exit Point (as an entry/exit point to/from transmission system owned by GAZ-SYSTEM S.A.), in line with point 3.5, and sets out special rules of providing gas transmission services in the Baltic Pipe Entry/Exit Point by GAZ-SYSTEM S.A.
- 3.2 Tariff of GAZ-SYSTEM S.A., TNC of GAZ-SYSTEM S.A. and Rules in versions current at given time are applicable to the Conditional PP/PZ. In case of any discrepancies between (i) Conditional PP/PZ and provisions of (ii) Transmission Agreement or TNC of GAZ-SYSTEM S.A. or Tariff of GAZ-SYSTEM S.A., provisions of Conditional PP/PZ shall be binding between the Parties.
- 3.3 This Conditional PP/PZ shall become effective upon signature by both Parties and shall remain in full force and shall remain valid to the last day of providing the gas transmission services as determined in accordance with point 3.5.
- 3.4 The object of the Conditional PP/PZ is:
- 3.4.1 the allocation for the System User of the capacity (contractual capacity) of the Baltic Pipe Entry/Exit Point (as an entry/exit point to/from transmission system owned by GAZ-SYSTEM S.A.), as determined in point 3.5, as well as providing the gas transmission services in accordance with the conditions established in Conditional PP/PZ, Transmission Agreement, and documents referred to in point 3.2;
 - 3.4.2 the obligation of the System User to pay for the ordered capacity in the Baltic Pipe Entry/Exit Point.
- 3.5 On the basis of the Conditional PP/PZ the System User, subject to the provisions of points 3.6 and 4.1 - 4.7, shall have the right to use the gas transmission services in the Baltic Pipe Entry/Exit Point in the form of the following capacity (contractual capacity) products:

The direction of gas flow	The period of validity of the capacity product (contracted capacity) (Gas Year)	Type of capacity (contracted capacity)	The amount of capacity (contracted capacity)
Capacity of the exit point from the Polish transmission system (PL->DK)		Firm	
Capacity of the entry point to Polish transmission system (DK->PL)		Firm	

- 3.6 Should the moment when the provision of gas transmission services in the Baltic Pipe Entry/Exit Point commences be postponed, for the reasons expressed in point 4.5-4.7, a period of providing the gas transmission services established in accordance with point 3.5 shall be duly postponed. The obligation to pay for the ordered capacity enters into force on the day in which GAZ-SYSTEM S.A. offers the provision of transmission services in the Baltic Pipe Entry/Exit Point.

4 ENTRY INTO FORCE OF THE OBLIGATIONS SPECIFIED IN THE CONDITIONAL PP/PZ

- 4.1 The obligations of the Parties determined in point 3.4 and 3.5 shall be provided under the condition precedent, that until 1st of December 2018 GAZ-SYSTEM S.A. and Energinet shall take positive Investment Decisions.
- 4.2 The positive Investment Decision referred to in point 4.1 shall be taken by GAZ-SYSTEM S.A. if, i.a.:
- 4.2.1 President of ERO approves the Development Plan of GAZ-SYSTEM S.A. in which the Baltic Pipe Project will be included;
 - 4.2.2 GAZ-SYSTEM S.A. obtains the necessary resources for the construction the Offshore Interconnector and for the Expansion of the Polish transmission system;
 - 4.2.3 Energinet and Gassco conclude the agreement to construct the Norwegian Tie-In;
 - 4.2.4 GAZ-SYSTEM S.A. obtains a permit from the Danish Minister of Energy, Utilities and Climate to construct the Offshore Interconnector on the Danish territory;
 - 4.2.5 The Danish Minister of Energy, Utilities and Climate issues a permit for GAZ-SYSTEM S.A. to remain the owner of the transmission infrastructure on the Danish territory, to execute the function of the transmission system operator and provide services of bi-directional gas transmission in the part of the Offshore Interconnector located on the Danish territory with no need to become the certified and appointed transmission system operator on the Danish territory;
- 4.3 GAZ-SYSTEM S.A. shall be authorized to take a positive Investment Decision although any of the conditions precedent referred to in point 4.2 is not fulfilled.
- 4.4 GAZ-SYSTEM S.A. shall continuously inform the System User on the progress of the implementation of the Baltic Pipe Project. In particular, the GAZ-SYSTEM S.A. shall without undue delay notify the System User on the fulfillment of the conditions precedent set forth in point 4.1. GAZ-SYSTEM S.A. shall inform without undue delay the System Users if any of the conditions precedent is unfulfilled, which results in termination of the Conditional PP/PZ.

- 4.5 The date of commencement of providing gas transmission services in the Baltic Pipe Entry/Exit Point specified in point 3.5 may be changed by GAZ-SYSTEM S.A. in case of delays in the implementation of the Offshore Interconnector or the Expansion of the Polish transmission system resulting from:
- 4.5.1 difficulties in obtaining all the necessary permissions and/or consents for access to the land where the construction works will take place, in particular due to the need of holding court proceedings with the aim of establishing the owners of the land;
 - 4.5.2 delay of any public authorities responsible for granting the permissions or administrative decisions necessary for the construction of the Offshore Interconnector or the Expansion of the Polish transmission system, beyond the periods determined in the applicable provisions of the law;
 - 4.5.3 delays in obtaining the approvals for the intersection of the Offshore Interconnector with the existing subsea infrastructure;
 - 4.5.4 any actions aiming at environmental protection, undertaken as a result of an unforeseeable threat to the environment, beyond the control of GAZ-SYSTEM S.A., in particular the threat to endangered species of plants or animals discovered on the construction site of the Offshore Interconnector or the Expansion of the Polish transmission system;
 - 4.5.5 appeals, prosecutions and other legal remedies submitted by the parties to administrative proceedings, including environmental organizations, causing delays in obtaining the necessary administrative permits or decisions;
 - 4.5.6 unforeseeable physical conditions, i.e. natural physical conditions and man-made and other physical obstructions and pollutants, encountered at the site when executing the works aimed at implementation of the Offshore Interconnector or the Expansion of the Polish transmission system, including sub-surface and hydrological conditions but excluding climatic conditions;
 - 4.5.7 geological or archaeological reasons, i.e. all fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the site which may cause a delay of the Offshore Interconnector or the Expansion of the Polish transmission system Pipe construction;
 - 4.5.8 exceptional temperature or climatic conditions, which were not present in the last ten years at the site;
 - 4.5.9 actions of the public institutions and third persons which are extraordinary and has a material impact for fulfilment of GAZ-SYSTEM's S.A. obligations in due time and which are beyond the reasonable control of GAZ-SYSTEM S.A. and occur without the fault or negligence of GAZ-SYSTEM S.A.;
 - 4.5.10 force majeure;
 - 4.5.11 circumstances affecting the implementation of the Baltic Pipe Project, which are not applicable to GAZ-SYSTEM S.A.;
 - 4.5.12 any change in applicable law, i.e. the law of Poland or any other country through whose territory the Offshore Interconnector or the Expansion of the Polish transmission system runs, between the date of conclusion of the Conditional PP/PZ and the date of commencement of the Offshore Interconnector or the Expansion of Polish transmission system, affecting the implementation of the Offshore Interconnector or the Expansion of the Polish transmission system;
 - 4.5.13 conflict with the planned or simultaneously carried out investments or construction works of GAZ-SYSTEM S.A., caused by the reasons beyond the influence of GAZ-SYSTEM S.A.;
 - 4.5.14 unforeseeable shortages in the availability of personnel or construction materials, caused by epidemic or governmental actions.

In case of occurrence of any of the foregoing events, GAZ-SYSTEM S.A. shall promptly inform the System User about a planned new date of commencement of providing gas transmission services in the Baltic Pipe Entry/Exit Point by GAZ-SYSTEM S.A.

- 4.6 Regardless of the provisions of point 4.5, the commencement date for providing gas transmission services in the Baltic Pipe Entry/Exit Point determined in accordance with the

provisions of points 3.5 and 4.5, may be changed (postponed) by GAZ-SYSTEM S.A. by no more than 24 (twenty-four) months, by written notice to the System User. Such notice, specifying the cause of the postponement and the new commencement date for providing gas transmission services in the Baltic Pipe Entry/Exit Point will be sent to the System User at least six (6) months before the commencement date for providing gas transmission services in the Baltic Pipe Entry/Exit Point established in accordance with the provisions of points 3.5 and 4.5. In such case, the date will be automatically changed according to the notice of GAZ-SYSTEM S.A., and the System User shall not be entitled in this respect to any claims. For the avoidance of doubt, a statement to postpone the commencement date for providing gas transmission services in the Baltic Pipe Entry/Exit Point may be submitted more than one (1) time, provided that the total period for which the commencement date for providing gas transmission services in the Baltic Pipe Entry/Exit Point will be postponed, does not exceed 24 (twenty-four) months. The System User shall not be entitled to any claims against GAZ-SYSTEM S.A. for such postponement of the commencement date for providing gas transmission services in the Baltic Pipe Entry/Exit Point.

- 4.7 In case of delays of Energinet in implementation of the Norwegian Tie-in, the Expansion of the Danish transmission system or the CS Zealand, GAZ-SYSTEM S.A. shall be authorized, acting independently or at the request of the System User, to adequately postpone the date of the commencement date for providing gas transmission services in relation to the date established in accordance with the Conditional PP/PZ.
- 4.8 For the avoidance of any doubts, a delay of the commencement date for providing gas transmission services in the Baltic Pipe Entry/Exit Point outside the date set forth in point 3.5 respectively, caused by any situation determined in points and 4.6 - 4.74.7 does not give the System User the right to terminate the Conditional PP/PZ.

5 LIABILITY

- 5.1 Subject to provisions of points 5.2 - 5.5, 6.10 - 6.11 and 8.3 the Parties shall be liable to each other for any culpable non-performance or improper performance of the Party's obligations determined in the Conditional PP/PZ, unless the circumstances excluding the liability of the Party occur, in particular the circumstances referred to in points 4.6 - 4.7.
- 5.2 GAZ-SYSTEM S.A. shall not be liable for loss of profit of the System User, as well as for any special, indirect or consequential damages of the System User, resulting from breach of the obligations established in Conditional PP/PZ in terms of commencement of providing transmission services in the Baltic Pipe Entry/Exit Point.
- 5.3 The liability of GAZ-SYSTEM S.A. for direct losses suffered by the System User since the commencement date for providing gas transmission services by GAZ-SYSTEM S.A. in the Baltic Pipe Entry/Exit Point shall be limited to the amount of PLN 17 000 000 (seventeen millions).
- 5.4 In case of any delay in commencement of providing the gas transmission services by GAZ-SYSTEM S.A. in relation to the date established in point 3.5, 4.5, 4.6 and 4.7, the System User shall be obliged to exercise due diligence in order to minimize the occurred losses, especially by undertaking any possible actions to postpone the date of gas reception, resale gas, or change the route of gas transmission. The System User shall be obliged to keep GAZ-SYSTEM S.A. informed about actions undertaken in order to minimize the losses and enable GAZ-SYSTEM S.A. to participate in those actions with no decision-making rights.
- 5.5 Within the limit established in point 5.3., the liability of GAZ-SYSTEM S.A. for the delay in commencement of providing gas transmission services outside the date determined on the basis of the provisions of points 3.5, 4.6 and 4.7 and shall be limited to the value of the lowest loss, which could be objectively suffered by the System User due to the delay of GAZ-SYSTEM S.A..

6 CONDITIONAL PP/PZ TERMINATION

- 6.1 The Conditional PP/PZ can be terminated only on the terms specified in this clause 6.

- 6.2 Due to the special nature of this Conditional PP/PZ, containing a commitment of GAZ-SYSTEM S.A. to implement the Baltic Pipe Project in order to provide gas transmission services in the Baltic Pipe Entry/Exit Point in accordance with the provisions of point 3.5 for a fixed period, subject to the provisions of points 6.5 - 6.8 of the Conditional PP/PZ, the Parties shall have no right to terminate or withdraw from the Conditional PP/PZ before the expiry of the period in which the gas transmission services should be provided to the System User in accordance with point 3.5. In particular, the Parties agree that for the termination of Conditional PP/PZ the provisions of the Transmission Agreement, TNC of GAZ-SYSTEM S.A. or Tariff of GAZ-SYSTEM S.A. do not apply.
- 6.3 If any change of provisions of the TNC of GAZ-SYSTEM S.A. is introduced, the obligation to apply such new provisions does not give the Parties the right to terminate the Conditional PP/PZ. The revised TNC of GAZ-SYSTEM S.A. after its entry into force will become a part of the Conditional PP/PZ which results in a duty to apply it as amended.
- 6.4 If a change of the rates or prices specified in the Tariff of GAZ-SYSTEM S.A. or the conditions of application of the Tariff of GAZ-SYSTEM S.A. is introduced, the obligation to apply such new rates, prices or conditions of application in a modified form does not give the Parties the right to terminate the Conditional PP/PZ. The revised Tariff of GAZ-SYSTEM S.A. after its entry into force will become a part of the Conditional PP/PZ which results in a duty to apply it as amended.
- 6.5 The Conditional PP/PZ shall be the subject to an immediate termination, if the condition precedent specified in point 4.1 is not fulfilled.
- 6.6 The Conditional PP/PZ can be terminated at any time by a written agreement of the Parties.
- 6.7 Due to the fact that the Baltic Pipe Project is implemented on the request of the System User, and the Conditional PP/PZ is the basis for the implementation and secures the return of the costs of implementation of the Baltic Pipe Project, GAZ-SYSTEM S.A. and the System User may terminate the Conditional PP/PZ after the commissioning of the Baltic Pipe and the commencement of providing gas transmission services in the Baltic Pipe Entry/Exit Point, only for duly justified reasons as indicated below, with two (2) months' notice:
- 6.7.1 System User has the right to terminate the Conditional PP/PZ due to:
- 6.7.1.1 failure of GAZ-SYSTEM S.A. to perform the services specified herein for the period of one hundred twenty (120) consecutive days;
- 6.7.1.2 breach by GAZ-SYSTEM S.A. of any material provisions of the TNC of GAZ-SYSTEM S.A., Tariff of GAZ-SYSTEM S.A. or this Conditional PP/PZ and a failure to remove such breach in a reasonable time;
- 6.7.2 GAZ-SYSTEM S.A. has the right to terminate the Conditional PP/PZ due to:
- 6.7.2.1 the System User's default with the payment for the transmission services provided in accordance with the Conditional PP/PZ for at least three (3) months after the date such payment was due, despite a prior written notice of the intention to terminate this Conditional PP/PZ and setting of an additional deadline of sixty (60) days for the payment of the outstanding and current obligations, and the System User has failed to pay all current and outstanding obligations within the next thirty (30) days after the lapse of the deadline;
- 6.7.2.2 a failure to provide the financial security in line with the GAZ-SYSTEM S.A. Rules or Conditional PP/PZ;
- 6.7.2.3 a failure by the System User to observe the gas curtailment measures that have been introduced in accordance with the valid provisions of the law or provisions of the TNC of GAZ-SYSTEM S.A.;
- 6.7.2.4 in case of breach by the System User of any material provisions of the TNC of GAZ-SYSTEM S.A., Tariff of GAZ-SYSTEM S.A. or this Conditional PP/PZ and a failure to remove such breach in a reasonable time.
- 6.7.3 Each Party shall have the right to terminate the Conditional PP/PZ immediately if circumstances of force majeure or removal of the effects of the force majeure acting on the Baltic Pipe will last for more than one hundred twenty (120) days. The Party shall have the right to terminate the Conditional PP/PZ, if the reasons which led to its

termination were the result of force majeure acting on the Offshore Interconnector or the Expansion of the Polish transmission system.

- 6.8 GAZ-SYSTEM S.A. shall have the right to terminate the Conditional PP/PZ, in case of termination of the agreement concluded between GAZ-SYSTEM S.A. and Energinet which specifies the rules of implementing the Baltic Pipe Project, in particular in following situations:
- 6.8.1 due to the fact that any of the permits required for constructing the elements of the Baltic Pipe, has not been obtained by 1.10.2024.
- 6.8.2 due to the fact that any of the elements of the Baltic Pipe has not been commissioned by 1.10.2027.
- 6.9 Regardless of the situations set forth in points 6.5 - 6.8, the Parties waive their right to terminate or withdraw from the Conditional PP/PZ before the expiry of the period for which the Conditional PP/PZ is concluded.
- 6.10 In case of termination or expiry of the Conditional PP/PZ, in particular due to termination:
- 6.10.1 by the System User for reasons other than those specified in point 6.7.1 or 6.7.3, in particular: (i) in connection with the introduction of new conditions of the application of the Tariff of GAZ-SYSTEM S.A., (ii) in the cases provided for in the TNC of GAZ-SYSTEM S.A., or (iii) in accordance with the Energy Law (i.e., Journal of Laws of 2012. Item. 1059, as amended.) or other binding provisions of law,
- 6.10.2 by GAZ-SYSTEM S.A. for justified reasons referred to in points 6.7.2.1 - 6.7.2.4,
- The System User is obliged to cover the relevant part of the realization costs borne by GAZ-SYSTEM S.A. to implement the Baltic Pipe Project in the amount calculated in accordance with points 6.11 - 6.13. If the damage of GAZ-SYSTEM S.A. exceeds the amount of the refund calculated in accordance with points 6.11 - 6.13, the GAZ-SYSTEM S.A. has the right to claim damages exceeding the amount of the due refund.
- 6.11 The method of calculation of the realization costs borne by GAZ-SYSTEM S.A. to implement the Baltic Pipe Project, which the System User is obliged to cover shall be the following:
- $$K = C \times M \times F$$
- where:
- K - the amount of expenditures incurred by GAZ-SYSTEM S.A. to implement the Baltic Pipe Project which the System User is obliged to cover, in PLN,
- C – sum of the expenditures incurred by GAZ-SYSTEM S.A. and the estimated expenditures which GAZ-SYSTEM S.A. is obliged to incur to implement the Baltic Pipe Project, in PLN, in particular any damages for the contractors of the engineering and construction of the Baltic Pipe or other transmission system operators along the Baltic Pipe route,
- M – ratio of the sum of capacity (contracted capacity) allocated to the System User in accordance with point 3.5 within the Open Season 2017 in the period of its duration, to the sum of the total amount of capacity of the Baltic Pipe Entry/Exit Point, allocated by GAZ-SYSTEM S.A. in both directions of the flow within the Open Season 2017 in the period of its duration.
- F – ratio of the combined level of capacity of the Baltic Pipe Entry/Exit Point for which realization of the Baltic Pipe Project will be economically justified, in both directions of the flow, to the sum of the total amount of capacity of the Baltic Pipe Entry/Exit Point, offered by GAZ-SYSTEM S.A. in both directions of the flow of gas within the Open Season 2017 in the period of its duration.
- 6.12 The amount of the realization costs incurred by GAZ-SYSTEM S.A. to implement the Baltic Pipe Project which the System User is obliged to cover, shall be adjusted, once when the Baltic Pipe is commissioned, proportionally to the difference, irrespective whether positive or

negative, between the planned realization costs and the actual realization costs incurred by GAZ-SYSTEM S.A. to implement the Baltic Pipe Project.

- 6.13 If the Conditional PP/PZ is terminated by the System User within the period after the commencement of providing gas transmission services, the amount of the costs determined in accordance with the point. 6.11 and 6.12, shall be reduced proportionally, at the time of submitting the notice of termination, in accordance with the following formula:

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

where:

SK - adjusted amount of the expenditures of the realization costs incurred by GAZ-SYSTEM S.A. to implement the Baltic Pipe Project, which the System User is obliged to cover, in PLN,

K - 100% of expenditures and the implementation costs incurred by GAZ-SYSTEM S.A. to implement the Baltic Pipe Project, which the System User is obliged to cover, in PLN, determined in accordance with point 6.11 and 6.12,

R - sum of capacity allocated to System User and performed in the period from commencement of transmission services of gaseous fuel, until the time of submitting the notice of termination,

Z - sum of capacity (contracted capacity) allocated to the System User in the period of its duration.

- 6.14 GAZ-SYSTEM S.A. has the right to draw against reimbursement referred to in point 6.10, the amount of the financial security submitted by the System User.
- 6.15 For the avoidance of any doubts the Parties agree that the termination of the transmission contract concluded as the result of the Open Season 2017 with Energinet does not affect the validity of the Conditional PP/PZ and does not give the right to terminate this Conditional PP/PZ.

7 FINANCIAL SECURITY

- 7.1 The Parties confirm that in order to secure the claims of GAZ-SYSTEM S.A. resulting from the Conditional PP/PZ, the System User has submitted a financial security confirming its financial ability to perform the financial obligations towards GAZ-SYSTEM S.A. in the form and in the amount determined in accordance with point 5 of the Additional GAZ-SYSTEM S.A. Rules for the Open Season 2017 (hereinafter: GAZ-SYSTEM S.A. Rules).
- 7.2 On the basis of the Conditional PP/PZ, the System User is obliged to maintain the financial security submitted to GAZ-SYSTEM S.A. in the full height, amount and form determined in accordance with the provisions of GAZ-SYSTEM S.A. Rules, , until the expiry of the last day of the second (2) month after the end of the sixth Gas Year in which GAZ-SYSTEM S.A. shall provide gas transmission services for the System User in accordance with point 3.5. The amount of the financial security shall be specified pursuant to the provisions set forth in GAZ-SYSTEM S.A. Rules, subject to point 7.5 - 7.6, whereby the amount of the OS 2017-Capacity of the Baltic Pipe Entry/Exit Point, allocated to the System User, as specified in the Conditional PP/PZ, in the Gas Year, when this amount is at its highest, shall constitute the reference basis for specifying the amount of the financial security. The provisions of point 5.6 second sentence of GAZ-SYSTEM S.A. Rules apply accordingly. In case the Conditional PP/PZ was concluded for a shorter period than six Gas Years, the obligation to maintain the financial security shall expire on the last day of the second (2) month after the end of the last Gas Year in which the System User was provided with the gas transmission services by GAZ-SYSTEM S.A. in accordance with point 3.5.
- 7.3 In case the financial security was submitted by the System User in the form of a bank guarantee, which expires earlier than it was established in accordance with point 7.2, the System User shall be obliged to renew the submitted bank guarantee within fourteen (14) Business Days prior to the expiry of its validity, by submitting to GAZ-SYSTEM S.A. a proof of

the establishment of financial security in the form compatible with the requirements of the GAZ-SYSTEM S.A. Rules, in the amount equal to the expiring bank guarantee.

- 7.4 The Non-Secured Credit Line determined in accordance with point 5 of GAZ-SYSTEM S.A. Rules shall be subject to annual review by the Parties. The review shall be conducted in June, from the first calendar year from the conclusion of the Conditional PP/PZ.
- 7.5 If, as a part of the annual review conducted in accordance with point 7.4, it shall be established, that the System User's credit rating or equity capital is reduced, the relevant System User, in order to perform the obligation established in point 7.2, shall be obliged to submit to GAZ-SYSTEM S.A. relevant documents evidencing its' current credit rating or the amount of equity capital along with the proof of establishment of an additional financial security. The additional financial security shall be established in line with the requirements determined in the GAZ-SYSTEM S.A. Rules.
- 7.6 Since the commencement of providing gas transmission services by GAZ-SYSTEM S.A. in accordance with point 3.5, the amount of financial security, for which maintenance the System User is obliged, shall be calculated based on rates of fees for the transmission services determined in accordance with applicable Tariff of GAZ-SYSTEM S.A. In case the rates of fees for the transmission services increases, as determined in the Tariff of GAZ-SYSTEM S.A., provisions of point 7.5 apply accordingly.
- 7.7 GAZ-SYSTEM S.A. is authorized to use the financial security due to the System User's delay with the payment for the services provided by GAZ-SYSTEM S.A. on the basis of the Conditional PP/PZ at least one (1) month after the expiry of the term of payment, despite the prior written notice by GAZ-SYSTEM S.A., in writing, of an additional term for payment of the current and overdue benefits. In case GAZ-SYSTEM S.A. uses the financial securities, the System User shall be obliged to supplement the amount of the security to the amount determined in accordance with the provisions of points 7.2, 7.5 and 7.6.
- 7.8 Subject to the possible increase in the amount of the financial security in accordance with point 7.5 or 7.6, the amount of the financial security to which maintenance the System User is obliged shall be reduced by fifty per cent (50%) after the first full Gas Year of the System User obtaining gas transmission services from GAZ-SYSTEM S.A. in line with point 3.5, and by a further ten per cent (10%) in each of the following five (5) Gas Years, until being finally released. In case the Conditional PP/PZ is concluded for a shorter period than six Gas Years, the complete release of the security occurs after the expiry of the last full Gas Year in which the System User used the gas transmission services provided by GAZ-SYSTEM S.A. in accordance with point 3.5.
- 7.9 The security deposited in the form of a cash collateral will be refunded together with interest arising from the bank account agreement on which it was held, after deduction of that amount from the cost of running the account and the bank commission for the transfer of money to the System's User bank account.
- 7.10 Establishment of financial security in accordance with point 7.2, releases the System User from the obligation to submit the financial security specified in the Transmission Agreement, regarding the financial liability arising from the Conditional PP/PZ, within the period when the submitted financial security is valid. After this financial security is released in total to the System User, in line with point 7.8, the System User shall be obliged to submit the financial security as specified in the Transmission Agreement regarding the financial liability arising from the Conditional PP/PZ as applicable at a given time.

8 SETTLEMENT

- 8.1 If the System User does not use the transmission services in the Baltic Pipe Entry/Exit Point provided on the basis of this Conditional PP/PZ for any reason, in particular due to a lack of supply of gas from the Norwegian sources, lack of sufficient storage capacity, lack of capacity in cooperating systems, the System User will be required to pay all the charges of a fixed nature in accordance with the Tariff of GAZ-SYSTEM S.A. or relevant price list of GAZ-SYSTEM S.A., until the expiry of the period in which the gas transmission services should be provided to the System User in accordance with point 3.5.

- 8.2 In the absence of legal regulations concerning the fixing of tariffs, the fees for the provision of gas transmission services will be calculated according to the provisions of the Act of 10 April 1997 - Energy Law (consolidated text Journal of Laws from 2012, pos. 1059, as amended) and the Regulation of the Minister of Economy of 28 June 2013 on the detailed rules and calculating tariffs and settlements in gaseous fuels (Journal of Laws from 2013, pos. 820) as in force on the date of the Conditional PP/PZ.
- 8.3 The System User shall guarantee to the benefit of GAZ-SYSTEM S.A. that: (i) it does not perform the right to terminate the capacity agreement concluded with Energinet as a result of the Open Season 2017 procedure (hereinafter referred to as: "Energinet Agreement") and (ii) it waives the right to terminate the Energinet Agreement within the time period of the Conditional PP/PZ remaining in force. In case of expiry or termination of the Energinet Agreement due to the circumstances specified in point 8.1 or point 16 of the Energinet Agreement, the System User shall guarantee to the benefit of GAZ-SYSTEM S.A. that it reacquires the capacity (contracted capacity) offered by the Energinet, in the points, in the amount (kWh/h) and for the time (the number of Gas Years) initially set forth in the Energinet Agreement concluded by the System User. In case of violation of the provisions set forth in point 8.3, the System User shall guarantee to the benefit of GAZ-SYSTEM S.A. that the System User pays for the damages and the lost profits, which has been incurred by the Energinet as a result of a lack of capacity reservation.

9 TRANSFER OF RIGHTS AND OBLIGATIONS ARISING FROM THE CONDITIONAL PP/PZ

- 9.1 Transfer of rights and obligations arising from the Conditional PP/PZ to a third party requires for its validity the written consent of the other Party, subject to point. 9.2 and 9.3 below.
- 9.2 GAZ-SYSTEM S.A. has the right to transfer its' rights and obligations arising from the Conditional PP/PZ on the entity acting as the operator of the transmission system on the Polish territory, on the basis of a binding decision by the President of the Energy Regulatory Office.
- 9.3 After the commissioning of the Baltic Pipe and the commencement of providing gas transmission services in the Baltic Pipe Entry/Exit Point, the System User shall have the right to resell or make available the capacity (contracted capacity) reserved in accordance with point 3.5, subject to the terms set forth in the TNC of GAZ-SYSTEM S.A, provided that the purchaser enters into the rights and obligations of the System User specified in the Conditional PP/PZ.

10 FINAL PROVISIONS

- 10.1 The Present Conditional PP/PZ was concluded for a definite period of time, from the day of signing by both Parties until the expiry of the last Gas Day, in which GAZ-SYSTEM S.A. shall provide transmission services for the System User, in accordance with provisions of the Conditional PP/PZ.
- 10.2 As long as the Conditional PP/PZ remains in force, neither of the Parties is entitled to terminate the Transmission Agreement. The Parties hereby agree, that the provisions of the Transmission Agreement regulating the right to terminate the Transmission Agreement do not apply within this period.
- 10.3 Any change of the Conditional PP/PZ requires an annex in writing under the pain of nullity.
- 10.4 An integral part of the Conditional PP/PZ are the Open Season 2017 Rules.

Signatures of the Parties

GAZ-SYSTEM S.A.

System User