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**Order to Proceed**

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executed on [●] (hereinafter the "**Agreement**"), between:

[●] with [●] registered office in [●], entered in [●] maintained by [●] under number [●], NIP [●]; REGON: [●], with the share capital of PLN [●], and paid-up capital of [●], represented by:

1. [●]
2. [●]

hereinafter referred to the "**OS Participant<sub>FSRU</sub>**"

and

**Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. with its seat in Warsaw**, a company having its registered office in Warsaw (02-370), at 4 Mszczonowska St, entered to the Register of Entrepreneurs of the National Court Register kept by the District Court for the Capital City of Warsaw in Warsaw, 12<sup>th</sup> Commercial Division of the National Court Register (KRS), with the KRS number 0000264771, tax identification number (NIP): 527-243-20-41; statistical number (REGON): 015716698, with share capital of PLN 3.771.990.842, fully paid up, represented by:

1. [●]
2. [●]

hereinafter referred to as the "**Operator**" or "**GAZ-SYSTEM S.A.**",

The OS Participant<sub>FSRU</sub> and the Operator are hereinafter jointly referred to as the "**Parties**" and each individually as a "**Party**".

**CONTENTS**

1. **DEFINITIONS** .....4

2. **REPRESENTATIONS AND WARRANTIES**.....4

3. **SUBJECT OF THE AGREEMENT** .....5

4. **RIGHTS AND OBLIGATIONS OF THE PARTIES** .....5

5. **TERM OF THE AGREEMENT** .....6

6. **TERMINATION**.....7

7. **LIABILITY OF THE PARTIES**.....8

8. **FORCE MAJEURE**.....9

9. **PERFORMANCE BOND** .....9

10. **CONFIDENTIALITY AND CYBERSECURITY**..... 11

11. **CONTACT DETAILS**..... 13

12. **ASSIGNMENT OF RIGHTS AND OBLIGATIONS UNDER THE AGREEMENT** ..... 13

13. **DISPUTE RESOLUTION**..... 13

14. **FINAL PROVISIONS**..... 14

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Whereas:

- 1) The Operator is considering an investment project consisting in the development of a floating LNG terminal in the Gdansk area (hereinafter: "**Terminal<sub>FSRU</sub>**"), with the capabilities required for LNG unloading, in-process storage and regasification. The Terminal<sub>FSRU</sub> is to be designed to receive at least 6.1 billion Nm<sup>3</sup> of natural gas per annum, and allow for the potential increase of the regasification capacity depending on market developments and growth in demand for natural gas in Poland and the region. The commissioning and start of operation of the Terminal<sub>FSRU</sub> in the Gulf of Gdansk are planned for the first half of 2028,
- 2) The project to develop the Terminal<sub>FSRU</sub> fits into the framework of both Polish and European policy to secure access to natural gas. The project is one of initiatives geared towards ensuring energy security and is part of the process of the country's energy and economic transformation in transition to less emission-intensive energy sources. According to the Energy Policy of Poland until 2040, the project is one strategic undertakings as regards ensuring Poland's strong position on the European natural gas market by achieving a zero-emission energy system (Pillar II),
- 3) The Parties are aware that in order for the Operator to undertake activities related to the implementation of the Project and spend significant financial resources for this purpose, it is necessary to ensure that the implemented undertaking meets the needs of market users and that in the future they will use the Regasification Services<sub>FSRU</sub>. At the same time, the Parties' experience shows that at such an early stage of an investment project, it is not possible to determine all its parameters, both technical and commercial, in a conclusive and final manner,
- 4) In order to understand the needs of market users and to obtain their binding booking commitments in respect of the Regasification Services<sub>FSRU</sub> to be provided using the Terminal<sub>FSRU</sub>, at a level ensuring competitiveness and profitability of the investment, the Operator has conducted Phase 1 of the Procedure, as a result of which it achieved the expected level of bookings for the Regasification Services<sub>FSRU</sub>,
- 5) The Parties enter into this Agreement to confirm the Participant's preliminary booking of Regasification Services<sub>FSRU</sub> as part of the Order submitted and its obligations to confirm that booking in Phase 2 of the Procedure, as well as the Operator's obligations and rights in relation to the Project, including the Procedure,

The Parties have agreed as follows:

## **1. DEFINITIONS**

All capitalised terms not otherwise defined in the Agreement shall have the meaning given to them in the General Implementation Conditions attached as Annex No. 1 hereto.

## **2. REPRESENTATIONS AND WARRANTIES**

2.1 Each Party hereby represents and warrants that:

- 2.1.1 it has performed all acts required by law for the purposes of the execution and performance of this Agreement;
- 2.1.2 is fully authorised to enter into the Agreement, and the persons signing the Agreement on its behalf are duly authorised to enter into binding obligations on its behalf, including with respect to the execution and performance of the Agreement;
- 2.1.3 the execution of the Agreement has been duly authorised by the competent governing bodies of the Party and the Agreement constitutes a lawful, valid and binding obligation of the Party.

- 2.2 The OS Participant<sub>FSRU</sub> shall represent, as at the date of the Agreement,:
- 2.2.1 whether any bankruptcy, restructuring or liquidation proceedings are pending against it, whether any proceedings for the establishment of a receivership are pending against it, as well as whether its assets have been encumbered in any way, e.g. through the appointment of an interim court supervisor or interim manager, and in the case when the OS Participant<sub>FSRU</sub> does not have its registered office in the territory of the Republic of Poland, it represents whether any analogous proceedings are pending against it or whether any analogous measures have been taken in accordance with the applicable regulations according to the registered office of the OS Participant<sub>FSRU</sub>;
  - 2.2.2 it has sufficient financial resources to perform its obligations under the Agreement and that these resources do not come from undisclosed or illegal sources within the meaning of the Act of 1 March 2018 on counteracting money laundering and terrorism financing (for consolidated text see Dz.U.2021.1132, as amended).

The representations referred to above constitute Annex No. 5 hereto.

- 2.3 The OS Participant<sub>FSRU</sub> undertakes to immediately, but no later than within five (5) Business Days of obtaining the relevant information, notify the Operator of the occurrence of circumstances causing, on the part of the OS Participant<sub>FSRU</sub>, the need to revise the representation referred to in point 2.2.1, or that it no longer meets the conditions described in point 2.2.2 or there are circumstances that may significantly jeopardize the fulfilment of the same in the future.
- 2.4 GAZ-SYSTEM S.A. and the OS Participant<sub>FSRU</sub> undertake to perform their obligations set out in this Agreement with utmost due diligence, as appropriate taking into account the professional nature of their business.

### **3. SUBJECT OF THE AGREEMENT**

- 3.1 The subject of this Agreement is to determine the conditions of participation of the OS Participant<sub>FSRU</sub> in the FSRU Open Season and the rules of conducting the Procedure by the Operator.

### **4. RIGHTS AND OBLIGATIONS OF THE PARTIES**

- 4.1 The OS Participant<sub>FSRU</sub> undertakes to participate in the binding phase (Phase 2 of the Procedure) of the FSRU Open Season conducted by the Operator and to submit a binding Offer, complete and correctly filled in, covering at least the same scope of the Regasification Services<sub>FSRU</sub> and the same period of provision of the Regasification Services<sub>FSRU</sub>, i.e. the same Gas Year(s), as in the Order enclosed as Annex No. 2, and to execute a Regasification Agreement<sub>FSRU</sub> and a Regasification Order<sub>FSRU</sub> with the Operator providing for a commitment to use Regasification Services<sub>FSRU</sub> according to the specifications set out in the Information on the allocation of the Regasification Services<sub>FSRU</sub>.
- 4.2 The Operator undertakes to initiate and carry out Phase 2 of the Procedure in accordance with the General Implementation Conditions, and in particular to:
- 4.2.1 to take the Preliminary Investment Decision by the date and under the conditions set out in 5.2 - 5.3 of the Agreement,
  - 4.2.2 develop and make public the Terminal Code, no later than by the starting date of Phase 2 of the Procedure, which will define the offered Regasification Services<sub>FSRU</sub> and the conditions of their provision, along with technical information concerning effective access to the Terminal<sub>FSRU</sub>, provided that the Terminal Code shall be developed on the basis of the FSRU Service Delivery Model, enclosed as Appendix No. 8 to the General Implementation Terms, with the reservation that its complete version will be created once all works related to construction of the Terminal<sub>FSRU</sub> will have been completed and

all technical parameters of the Terminal<sub>FSRU</sub> plant are known. The Operator undertakes that in preparing the final content of the Terminal Code, it will amend or supplement only those elements of the FSRU Service Delivery Model which are covered by the scope of the Terminal Code which:

- (a) are indicated as elements that require revision or supplementation in the FSRU Service Delivery Model, the General Implementation Conditions or this Agreement;
  - (b) result from a change in generally applicable legislation or decisions by public administration authorities.
- 4.2.3 provide to the OS Participants<sub>FSRU</sub>, under the terms and conditions specified in the General Implementation Conditions, information on the planned regulatory value of assets adopted for estimating the return on capital, which will be included in the tariff for services provided with the use of Terminal<sub>FSRU</sub>, current as at the starting date of Phase 2 of the Procedure;
- 4.2.4 allocate, according to the terms and conditions set out in the General Implementation Conditions, the Regasification Services<sub>FSRU</sub> to participants that have submitted complete and properly completed Offers in Phase 2 of the Procedure. The Operator guarantees that when no other party but for the OS Participant<sub>FSRU</sub>, has executed an OtP with the Operator as a result of Phase 1 of the Procedure, the level of the Regasification Services<sub>FSRU</sub> allocated to the OS Participant<sub>FSRU</sub> as a result of Phase 2 of the Procedure will be equal to the level of the Regasification Services<sub>FSRU</sub> specified in the Order and subsequently confirmed in the Offer, for the time slots resulting from the Offer. When the OS Participant<sub>FSRU</sub> is not the only entity with which the Operator has entered into an OtP as a result of Phase 1 of the Procedure, then the Operator guarantees that the allocation of the Regasification Services<sub>FSRU</sub> to the OS Participant<sub>FSRU</sub> will be made in accordance with the provisions of point 14.3 of the General Implementation Conditions.

## **5. TERM OF THE AGREEMENT**

- 5.1 The Agreement is concluded for a fixed period of time, from the date of its signing by both Parties, until the expiry of three (3) months after the deadline specified in the Schedule for the submission of the Offer under Phase 2 of the Procedure, with the reservation that the Agreement shall expire upon the execution of the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub> by the Parties.
- 5.2 In connection with ongoing preparatory work covering the first stage of Project implementation, including in particular the commencement of procedures that influence the Preliminary Investment Decision, the Operator reserves the right to withdraw from the Agreement in its entirety, in case when a negative Preliminary Investment Decision is taken, until the expiry of twelve (12) months counted from the date of this Agreement.
- 5.3 The Operator's positive Preliminary Investment Decision shall be conditional upon, among other things:
- 5.3.1 obtaining in within Phase 1 of the Procedure of (a) binding Order(s) sufficient to confirm the viability of the Project, including its competitiveness;
  - 5.3.2 commitment of the OS Participants<sub>FSRU</sub> that have submitted binding Orders to submit an Offer in Phase 2 of the Procedure for at least the same scope of Regasification Services<sub>FSRU</sub> and for the same period of provision of Regasification Services<sub>FSRU</sub>, i.e. the same Gas Year(s), as in the Order(s);
  - 5.3.3 declaration by each OS Participant<sub>FSRU</sub> that had submitted a binding Order that such OS Participant<sub>FSRU</sub> accepts liability towards GAZ-SYSTEM S.A. in accordance with the principles set forth in point 7.2, in case when the OS Participant<sub>FSRU</sub> fails to submit an

Offer in Phase 2 of the Procedure or reduces the level of the Regasification Services<sub>FSRU</sub> requested in the Offer in Phase 2 of the Procedure in comparison with the Order.

- 5.3.4 conclude the proceedings and negotiate the contract for the selection of the Project engineering design contractor(s) according to the One Stop Shop formula, for a value not exceeding the estimated procurement costs;
  - 5.3.5 enter into arrangements with third parties in respect of the development of other components of the Project, i.e. the Jetty and the Breakwater;
  - 5.3.6 absence of any other circumstances that could affect Project feasibility, including specifically the particular those related to the occurrence of Force Majeure, difficulties caused by the state of the epidemic and regulations introduced due to the state of the epidemic.
- 5.4 GAZ-SYSTEM S.A. shall have the right to take a positive Preliminary Investment Decision despite that the conditions set out in point 5.3 have not been fulfilled.
- 5.5 The Operator shall keep the OS Participant<sub>FSRU</sub> informed of the progress of the Terminal<sub>FSRU</sub> development. In particular, GAZ-SYSTEM S.A. shall immediately notify the OS Participant<sub>FSRU</sub> of the fulfilment of the conditions set out in point 5.3. GAZ-SYSTEM S.A. shall immediately inform the OS Participant<sub>FSRU</sub> of the non-fulfilment of any of the conditions set out in point 5.3, which may result in a negative Initial Investment Decision, unless GAZ-SYSTEM S.A. avails itself of the regulation set out in point 5.4.
- 5.6 If GAZ-SYSTEM S.A. fails to take the Preliminary Investment Decision by the date indicated in point 5.2, the OS Participant<sub>FSRU</sub> shall have the right to withdraw from the Agreement. The OS Participant<sub>FSRU</sub> shall be able to exercise the right of withdrawal no later than one (1) month after the expiry of this deadline. In the event that the OS Participant<sub>FSRU</sub> exercises its right to withdraw, the Operator shall reimburse the OS Participant<sub>FSRU</sub> for the costs incurred in maintaining the bank guarantee presented as part of participation in Phase 1 of the Procedure, however no more than PLN 300,000 excl. VAT per year, as prorated according to the time for which the guarantee was maintained in a given year, and no more than PLN 450,000 excl. VAT in total.

## **6. TERMINATION**

- 6.1 The Agreement may only be terminated or expire in accordance with the terms set out in this point 6, or in the General Implementation Conditions.
- 6.2 Due to the specific nature of this Agreement, containing the undertaking of the OS Participant<sub>FSRU</sub> to participate in the Procedure in order to enable GAZ-SYSTEM S.A. to implement the Project, subject to the provisions of points 5.2, 5.6, 6.4 and 6.5, to the extent permitted by law, the Parties waive their right to terminate the Agreement or withdraw from it before the lapse of the period for which it was concluded.
- 6.3 The Agreement may be terminated at any time by written agreement of the Parties.
- 6.4 Notwithstanding the provisions of point 5.2, the Operator reserves the right to discontinue the Procedure and withdraw from the Agreement in its entirety, within twenty-four (24) months from the execution of the Agreement. The Operator shall exercise the right of withdrawal by way of a written notice addressed to the OS Participant<sub>FSRU</sub>.
- 6.5 In the event that the declaration of the OS Participant<sub>FSRU</sub> referred to in point 8.1.6.7 or point 8.1.6.8 of the General Implementation Conditions or point 2.2 turns out to be untrue, GAZ-SYSTEM S.A. may, within thirty (30) days from the day on which GAZ-SYSTEM S.A. became aware of this, withdraw from the Agreement. In such a case, GAZ-SYSTEM S.A. may demand compensation from the OS Participant<sub>FSRU</sub> for the damage resulting from the withdrawal, including payment of the amount specified in point 7.2. GAZ-SYSTEM S.A. may exercise its right to withdraw from the Agreement by the date by 31 December 2038.

## 7. LIABILITY OF THE PARTIES

7.1 Subject to the provisions of points 7.5 and 10.16 of the Agreement, the liability of GAZ-SYSTEM S.A. for any claims under the Agreement is limited to actual damage excluding lost profits.

7.2 In the event that the OS Participant<sub>FSRU</sub> fails to comply with the obligation set out in point 4.1 of the Agreement, i.e. when:

- a) the scope of the Regasification Services<sub>FSRU</sub> for individual Gas Years indicated in its Offer is lower than the scope specified for such Gas Years in the Order submitted by the OS Participant<sub>FSRU</sub>, or
- b) the OS Participant<sub>FSRU</sub> fails to submit an Offer in Phase 2 of the Procedure, or
- c) The Offer submitted by the OS Participant<sub>FSRU</sub> is incomplete or incorrectly compiled, and the deficiencies are not fully corrected within the time limit set in accordance with the provisions of the General Implementation Conditions,
- d) the OS Participant<sub>FSRU</sub> fails to execute, due to reasons attributable to the OS Participant<sub>FSRU</sub>, a Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub> providing for an obligation to use the Regasification Services<sub>FSRU</sub> according to the specifications set out in the Information on the allocation of the Regasification Services<sub>FSRU</sub>,
- e) the OS Participant<sub>FSRU</sub> terminates the Agreement in breach of its provisions,

the Operator shall be entitled to demand that the OS Participant<sub>FSRU</sub> pays and the OS Participant<sub>FSRU</sub> shall be will obliged to pay the Operator a sum equivalent to Project execution costs incurred by GAZ-SYSTEM S.A., including: (a) documented and total costs of Project implementation, including engineering costs, incurred up to that point by GAZ-SYSTEM S.A., (b) documented and total costs to be borne by GAZ-SYSTEM S.A. that will arise due to the amendment or termination of or withdrawal from contracts concluded up to that point with contractors acting on behalf of GAZ-SYSTEM S.A. for the purposes of Project implementation, including its engineering, (c) costs related to the reimbursement by the Operator of the costs of maintaining the financial security presented by other OS Participants<sub>FSRU</sub>, under the Procedure. When the Operator proceeds with the implementation of the Project despite the failure to obtain Offers for a sufficient scope of Regasification Services<sub>FSRU</sub>, this shall not release the OS Participant<sub>FSRU</sub> from liability for its default on the obligation specified in point 4.1 of this Agreement. When the damage suffered by GAZ-SYSTEM S.A. exceeds the amount of the cost reimbursement due, GAZ-SYSTEM S.A. shall have the right to claim damages in excess of the amount of the cost reimbursement due. The payment of the above costs does not result in the acquisition of any rights to the Project by the OS Participant<sub>FSRU</sub>.

7.3 In the event that the situation described in point 7.2 concerns more than one Participant to the Procedure, then the OS Participant<sub>FSRU</sub> shall be obliged to cover its pro rata share (in relation to the scope of the Regasification Services requested in its Order) of the costs indicated in point 7.2, incurred by GAZ-SYSTEM S.A., i.e. the OS Participant<sub>FSRU</sub> shall cover a portion of the costs specified in point 7.2 that is proportional to volume of its Order in relation to the scope of the Regasification Services<sub>FSRU</sub> specified in point. 11.1.3 of the General Implementation Conditions.

7.4 The OS Participant<sub>FSRU</sub> shall have the right to indicate to the Operator of a third party that will assume the rights and obligations of the OS Participant<sub>FSRU</sub> under this Agreement, provided that such a third party shall, at the same time, meets all the conditions for participation in the Procedure. In such a situation, the principles concerning the liability of the OS Participant<sub>FSRU</sub> in relation to its withdrawal from the Procedure are as follows:

- 7.4.1 if a third party assumes in full the rights and obligations of the OS Participant<sub>FSRU</sub> resulting from this Agreement, in particular with respect to the scope of the Regasification Services<sub>FSRU</sub> and the period of their provision, the OS Participant<sub>FSRU</sub> shall be fully released from liability for failure to perform its obligations under point 7.2;



7.4.2 if a third party assumes the rights and obligations of the OS Participant<sub>FSRU</sub> resulting from this Agreement in part, i.e. only in respect of a part of the ordered volume of the Regasification Services<sub>FSRU</sub>, or of the period of their provision, the OS Participant<sub>FSRU</sub> shall be released from liability for failure to perform its obligations with respect to that part.

7.5 When GAZ-SYSTEM S.A. Withdraws from the implementation of the Project in accordance with the provisions of this Agreement and the General Implementation Conditions, the OS Participant<sub>FSRU</sub> shall not be entitled to any claims against GAZ-SYSTEM S.A., except for the claims expressly provided for under the Agreement or the General Implementation Conditions.

## **8. FORCE MAJEURE**

8.1 The Parties shall not be liable for failure to perform or for improper performance of their obligations hereunder when this is caused by Force Majeure.

8.2 The party invoking Force Majeure shall:

8.2.1 without undue delay, but no later than within seven (7) Business Days from the date of occurrence of the Force Majeure circumstances, notify the other Party of the occurrence of such Force Majeure circumstances and the extent thereof, the estimated period for which it is expected to continue and the impact on the performance by the Party invoking the Force Majeure of its obligations under the Agreement;

8.2.2 during the period of Force Majeure, inform the other Party from time to time, and in any case not less frequently than at the end of each calendar month, about actions taken to remove the effects of the Force Majeure and the expected date of commencement of proper performance under the Agreement;

8.2.3 use all reasonable endeavours to limit the scope of the Force Majeure and to remove its effects as soon as possible;

8.2.4 immediately after the cessation of the Force Majeure and the removal of its consequences, notify the other Party thereof and, without further request, to resume the proper performance of its obligations under the Agreement.

8.3 Any deadlines indicated in the Agreement and binding on the Parties shall be extended accordingly by the duration of the Force Majeure preventing the performance.

8.4 If the Force Majeure persists for more than twelve (12) months the Parties shall promptly begin the renegotiation of the Regasification Agreement<sub>FSRU</sub> in order to determine the conditions for its continuation.

8.5 If, despite the lapse of six (6) months from the commencement of the renegotiation of the Agreement, the Parties, acting in good faith, fail to reach an agreement as to the determination of the terms of continuation of the Agreement, each Party shall be entitled to terminate the Agreement without notice.

## **9. PERFORMANCE BOND**

9.1 The Parties confirm that in order to secure GAZ-SYSTEM S.A.'s claims under this Agreement, the OS Participant<sub>FSRU</sub> has submitted a financial security (performance bond) confirming its financial capacity to duly perform its financial obligations under this Agreement, in the form and amount specified in accordance with Section 10 of the General Implementation Conditions.

9.2 The OS Participant<sub>FSRU</sub> shall maintain the performance bond referred to in point 9.1, in the form and amount set in accordance with points 9.3 - 9.5, until the date of execution of the Regasification Order<sub>FSRU</sub> and the Regasification Agreement<sub>FSRU</sub> or until the OS Participant<sub>FSRU</sub>

receives information from GAZ-SYSTEM S.A. on its withdrawal from the execution of the Project.

- 9.3 In the event that the OS Participant<sub>FSRU</sub> presents a performance bond hereunder for a period shorter than that specified in point 9.2, it shall be obliged, at least thirty (30) days prior to the expiry of the validity period, to present a new security instrument conforming to the requirements specified in points 9.3 - 9.5 and valid for a period no shorter than one (1) year. In the event of a default on the obligation to present a new performance bond hereunder, GAZ-SYSTEM S.A. shall have the right to draw down the on existing security and retain the amount thus obtained as security in place of the security which has not been presented, in the form of a non-interest-bearing cash deposit, even if the Operator has not suffered any damage as a result of the failure of the OS Participant<sub>FSRU</sub> to perform the aforementioned obligation.
- 9.4 The performance bond hereunder should be maintained in the form of an irrevocable, transferable, unconditional bank guarantee payable on first demand, in the form of Annex No. 3 hereto, or in another substantially consistent form, provided that GAZ-SYSTEM S.A. has approved in advance the wording of such an alternative bank guarantee. The bank guarantee shall be issued by a bank with a current rating of not less than: Baa2, BBB, BBB, respectively, depending on the Agency: Moody's (*LT Rating*), Standard & Poor's (*LT Issuer Rating*) or Fitch (*LT IDR Rating*). In case when the relevant bank has acquired ratings from more than one rating agency, the lower rating shall apply. The bank guarantee shall be drawn up and interpreted according to the Polish law. If the bank guarantee had not been issued in Polish, it should be presented to GAZ-SYSTEM S.A. along with a sworn translation into Polish. The bank guarantee should be denominated in PLN.
- 9.5 The value of the performance bond shall be determined in accordance with the provisions of point 10.2. of the General Implementation Conditions.
- 9.6 The Operator shall have the right to draw down on the performance bond referred to in 9.1, in order to cover its claims resulting from non-performance or improper performance by the OS Participant<sub>FSRU</sub> of its obligations under this Agreement, in particular:
- 9.6.1 to satisfy the financial claims of the Operator specified in 7.2,
- 9.6.2 in the event of termination or cancellation of the Agreement prior to the expiration of the period for which it was concluded, by the OS Participant<sub>FSRU</sub> or by the Operator for reasons attributable to the OS Participant<sub>FSRU</sub>, subject to the provisions of this Agreement,
- 9.6.3 withdrawal from the Agreement by GAZ-SYSTEM S.A. for reasons attributable to the OS Participant<sub>FSRU</sub>.
- 9.7 Each time, if the Operator draws down on the performance bond referred to in 9.1, the OS Participant<sub>FSRU</sub> shall be required to replenish the amount of the bond within five (5) Business Days from the date on which it is drawn by the Operator.
- 9.8 If at any time the issuer of the bank guarantee loses the rating referred to in point 9.4, the OS Participant<sub>FSRU</sub> shall immediately inform GAZ-SYSTEM S.A. of this fact, and undertakes that in such event the bank guarantee shall be replaced with another bank guarantee conforming to the criteria set out in points 9.2 - 9.5 within thirty (30) days of the loss of the minimum rating by the former guarantee issuer.
- 9.9 The performance bond shall be returned to the OS Participant<sub>FSRU</sub> within fourteen (14) Business Days in the following cases:
- 9.9.1 GAZ-SYSTEM S.A. takes a negative Preliminary Investment Decision and withdraws from the Agreement,
- 9.9.2 In Phase 2 of the Procedure, the OS Participant<sub>FSRU</sub> executes a Regasification Order<sub>FSRU</sub> and a Regasification Agreement<sub>FSRU</sub>,

- 9.9.3 a third entity effectively takes over the rights and obligations of the OS Participant<sub>FSRU</sub> under this Agreement, in accordance with the provisions of point 7.4, however, in the event that the third entity assumes a part (and not all) of the rights and obligations of the OS Participant<sub>FSRU</sub> under this Agreement, the financial security shall be returned to the OS Participant<sub>FSRU</sub> upon submission to the Operator of evidence of the establishment of new financial security proportional to the level of the Regasification Services<sub>FSRU</sub> in respect of which the third entity has not assumed the rights and obligations of the OS Participant<sub>FSRU</sub>,
- 9.9.4 GAZ-SYSTEM S.A. decides to discontinue the Procedure or withdraws from the Agreement in its entirety due to reasons independent of the OS Participant<sub>FSRU</sub>.

## 10. CONFIDENTIALITY AND CYBERSECURITY

- 10.1 All information, materials and documents which are not publicly available data and are disclosed to the OS Participant<sub>FSRU</sub> by the Operator for the purposes of the performance of this Agreement (hereinafter: "**Confidential Information**") shall be treated as confidential.
- 10.2 The Parties undertake not to share or disclose, without the prior written consent of the other Party, any Confidential Information, including, in particular, any program-related, technical, technological, organisational, financial, personal, commercial, statistical, employee data, concerning the other Party, which have been obtained in the course of performance of this Agreement. The Parties agree to ensure that the Confidential Information is protected against unauthorised disclosure, access and loss during the term of the Agreement and after its performance, expiry, termination or withdrawal therefrom by either Party.
- 10.3 Any information obtained by the Parties in connection with the performance of their obligations under the Agreement may only be used for the purpose of performing this Agreement.
- 10.4 The obligations of the Parties referred to in points 10.2 - 10.3 do not relate to Confidential Information which:
- 10.4.1 were publicly available on the date of their disclosure to the other Party, or are subsequently made public without a breach of this Agreement;
- 10.4.2 the Party is required to disclose under generally applicable law, provided that when necessity to disclose such Confidential Information results from the right of access to public information, prior to disclosing the Confidential Information the Party should inform the other Party of the disclosure demand, provided that the disclosure does not conflict with generally applicable law, and cooperate with the other Party regarding the content of such disclosure or actions that may reasonably be taken to contest the validity of such demand, or to reduce its scope.
- 10.5 If there is any doubt as to the nature of the information in question, before it is disclosed or made publicly available, the disclosing Party shall ask the other party to indicate whether the information is to be treated as Confidential Information.
- 10.6 In the course of the performance of this Agreement, the Operator does not envisage the possibility of providing access to:
- 10.6.1 any information constituting trade secret within the meaning of Article 11(4) of the Act on Combating Unfair Competition of 16 April 1993 (consolidated text in Dz.U.2020.1913, as amended);
- 10.6.2 any classified information within the meaning of the Act of 5 August 2010 on the protection of classified information (consolidated text in Dz.U.2019.742, as amended).
- 10.7 The Operator reserves the right, in particularly justified cases, to make certain materials available to the OS Participant<sub>FSRU</sub> only for inspect at the premises of GAZ-SYSTEM S.A., without the possibility of making copies. Materials classified as state or business secret shall be

disclosed to those persons on behalf of the OS Participant<sub>FSRU</sub> who have the appropriate security clearance.

- 10.8 The obligation of confidentiality shall apply for the duration of the Agreement and, upon termination or expiry, for the period of time during which the Confidential Information retains its economic value, but not less than ten (10) years.
- 10.9 The Confidential Information may be disclosed solely to those persons on the part of the OS Participant<sub>FSRU</sub> for whom such disclosure shall be indispensable for the performance of this Agreement.
- 10.10 Each Party shall exercise due care to ensure the compliance with the provisions of this point 10 by its employees or persons acting under the its mandate or in its interest, whatever the legal basis for such persons' relationship to the Party. Each Party shall be responsible for such persons' actions or omissions to the same extent as for its own actions or omissions.
- 10.11 In performing the obligation set out in point 10.10, the OS Participant<sub>FSRU</sub> undertakes, in particular, to provide training to all persons who, on behalf of the OS Participant<sub>FSRU</sub>, will directly participate in the performance of this Agreement and will have access to Confidential Information, concerning the principles of protection of the Confidential Information and the purpose of its disclosure.
- 10.12 Subject to the other provisions of this Agreement, a Party may share the Confidential Information with entities whose services it may be using for the purpose of adequate performance of this Agreement (Subcontractors) on condition that each Subcontractor shall be obligated in writing to keep such information confidential on terms analogous to those set forth herein. Provisions set out in points 10.9 - 10.11 shall apply *mutatis mutandis* to employees and persons acting on the mandate or in the interest of Subcontractors, whatever the legal basis for such persons' relationship to the Subcontractor, including legal, engineering and business advisors. A Party shall be liable for acts or omissions of its Subcontractors as for its own acts or omissions.
- 10.13 In the event of any disclosure, other than as permitted hereunder, loss or unauthorized access to the Confidential Information being subject to non-disclosure and protection obligation, either Party shall immediately notify the other Party and take the necessary actions, including without limitation co-operating with the other Party to mitigate the impact of the breach and damage arising from such disclosure, loss or access to the Confidential Information.
- 10.14 Each Party reserves the option at any time to demand that the other Party returns the Confidential Information disclosed by it or generated by the other Party in the performance of the subject of this Agreement. Notwithstanding the foregoing, each Party shall have the right to retain copies of the Confidential Information for its own use in connection with the performance of this Agreement or for the defence against possible future claims, provided that such copies are properly secured in accordance with the provisions of this point 10.
- 10.15 In justified cases the Operator reserves the option to verify the correctness of the performance of the obligations provided for herein by conducting an audit in this regard at the premises of the OS Participant<sub>FSRU</sub>. The Operator shall inform the OS Participant<sub>FSRU</sub> of its intention to conduct the audit at least seven (7) days in advance and agree the audit date with the OS Participant<sub>FSRU</sub>.
- 10.16 In the event of a breach of the confidentiality obligation, a Party shall be fully liable, in accordance with the principles set out in the Civil Code and the Act on Combating Unfair Competition, for any damage caused by such breach.
- 10.17 When exchanging electronic correspondence with the Operator, the OS Participant<sub>FSRU</sub> shall report any observed or suspected events concerning the ITC environment of GAZ-SYSTEM S.A., which at the time of being discovered or reported appear to be cybersecurity incident. A cybersecurity incident is defined as an event or series of undesirable or unexpected events related to information security that create a significant likelihood of disruption to business processes and may compromise the Operator's information security.

10.18 In case when the event referred to in point 10.17 above or the likelihood of such an event occurring is identified, the OS Participant<sub>FSRU</sub> shall immediately inform the Operator thereof through one of the communication channels available below:

10.18.1 by telephone call on: +48 22 22 01 111 or +48 885 250 999;

10.18.2 by email to: cert@gaz-system.pl.

The provisions of point 11.3 shall apply *mutatis mutandis*.

10.19 The parties are obliged to provide each other with all relevant and necessary information concerning the event referred to in 10.17 above.

## 11. CONTACT DETAILS

11.1 Subject to the separate provisions hereof, all correspondence exchanged in connection with the execution and performance of this Agreement shall be addressed to the Parties' addresses as indicated in the introductory section of this Agreement, and shall be delivered either personally against acknowledgement of receipt, by registered mail with return receipt requested, by courier service or by electronic mail (in the case of delivery by electronic mail, the message shall be deemed effective delivered upon the confirmation of its receipt by the recipient), or it may otherwise be deemed undelivered.

11.2 The Parties envisage the following contact details for the purposes of communication by email:

11.2.1 For the Operator: .....

11.2.2 For the OS Participant<sub>FSRU</sub>: .....

11.3 The following individuals shall be authorized to make any declarations related to the performance of this Agreement except, however, for the right to amend the Agreement:

11.3.1 on behalf of the Operator: [●]

11.3.2 on behalf of the OS Participant<sub>FSRU</sub>: [●]

11.4 A change of the details referred to in point 11.2 and point 11.3 and in the introductory section of this Agreement shall not require the execution of an amendment to the Agreement, and prompt notification of the previous representative of the Party in writing shall be sufficient.

## 12. ASSIGNMENT OF RIGHTS AND OBLIGATIONS UNDER THE AGREEMENT

12.1 The Operator shall have the right to establish a registered pledge on the receivables arising from the Agreement.

12.2 The Parties acknowledge that the OS Participant<sub>FSRU</sub> shall have the right to transfer all or part of the rights and obligations under this Agreement onto a third party only with the consent of the Operator expressed in writing otherwise being null and void.

## 13. DISPUTE RESOLUTION

13.1 The Parties shall endeavour to resolve amicably any disputes arising in connection with the Agreement or its interpretation. Should the efforts to arrive at an amicable solution fail, any disputes arising out of this Agreement shall be settled by a competent court having jurisdiction over the Śródmieście district of the City of Warsaw.

## 14. FINAL PROVISIONS

- 14.1 This Agreement shall be governed by the Polish law and shall be interpreted accordingly.
- 14.2 This Agreement shall be effective as of the date of its signing.
- 14.3 The Parties agree that in the event of any part of the Agreement being held invalid or otherwise legally defective, the Parties shall, at the request of either Party, immediately enter into negotiations in good faith with a view to replacing such provisions as soon as possible with provisions as close as possible to the content of the Agreement, which shall be valid and enforceable and shall reflect the original intentions of the Parties as expressed in the wording of the Agreement. If the Parties fail to reach an agreement within thirty (30) days of receiving either Party's notice hereunder, the issue shall be determined in a binding manner, at the request of either Party, by a court competent to resolve disputes arising from the Agreement.
- 14.4 Subject to applicable law, in the event of a conflict between any of the provisions of this Agreement and the General Implementation Conditions or other appendices, the provisions of the Agreement shall prevail.
- 14.5 To the extent permissible under applicable law, the Parties exclude the application of Article 357<sup>1</sup> of the Civil Code Act of 23 April 1964 (consolidated text Dz.U.2020.1740, as amended) to this Agreement.
- 14.6 The Parties agree that if, as a result of performance of the Agreement, it becomes necessary for the Operator to share personal data with the OS Participant<sub>FSRU</sub>, then the Parties shall sign a data sub-processing agreement.
- 14.7 Each Party shall fulfil the obligation to provide information under Article 14(1) – (3) of Regulation (EU) 2016/679 of the European Parliament and of the 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) (OJ L 119/1, 2016 ) (hereinafter: "**GDPR**").
- 14.8 The Participant shall fulfil the obligation to provide information under Article 14(1) – (3) of the GDPR in relation to persons designated and authorised to be day-to-day contacts in connection with the performance of the Agreement and to perform the Agreement, by providing such persons with information in accordance with the specimen constituting Appendix No. 4 to the Agreement. The Operator's obligations to provide information are set out I further on its corporate website at the following address: <https://en.gaz-system.pl/stopka/polityka-prywatnosci/>.
- 14.9 This Agreement has been executed in the Polish language, in two (2) counterparts, one (1) for each Party.
- 14.10 The following Annexes constitute an integral part of the Agreement:

|                    |   |
|--------------------|---|
| <b>Annex No. 1</b> | General Implementation Conditions (excluding Appendices Nos. 1, 2, 3, 4, 5, 6, 7, 9, 10).   |
| <b>Annex No. 2</b> | Order   |
| <b>Annex No. 3</b> | Form of bank guarantee  |
| <b>Annex No. 4</b> | Obligation to provide information to persons designated to sign and perform the Agreement, which involves business contacts and performance of Agreements concluded by the Operator |

Signatures of the Parties

For the **OS Participant**<sub>FSRU</sub>

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Name: [●]

Position: [●]

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Name: [●]

Position: [●]

For the **Operator**

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Name: [●]

Position: [●]

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Name: [●]

Position: [●]

DRAFT

**Information of Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. („GAZ-SYSTEM”),  
concerning personal data protection for persons appointed for representation when  
concluding agreements with GAZ-SYSTEM and for persons indicated for official contacts in  
contracts or for the performance of contracts concluded with GAZ-SYSTEM**

**Why do we need your personal data?**

We collect your personal data because they are necessary for us to establish your entitlement to enter into or perform a contract, as well as for the purpose of maintaining business contacts in connection with the conclusion and performance of a contract to which the entity that indicated you as a representative to enter into or perform the contract is a party, or for the purpose of maintaining business contacts in connection with the conclusion or performance of the contract.

**Who do we share the data with?**

The following entities may be the recipients of the data:

- our employees or co-workers,
- members of GAZ-SYSTEM's bodies,
- entities authorised under applicable laws (in particular courts, state authorities, institutions),
- undertakings providing services to GAZ-SYSTEM on the basis of concluded agreements, in particular undertakings providing IT services and new technologies, postal and courier services, document destruction and archiving, accounting and financial services, security services for people and property.

**Do we transfer data to third countries or international organisations?**

We do not transfer data to international countries or organisations that do not protect them adequately.

**What is the legal basis for processing?**

The basis for the processing of personal data is Article 6 Paragraph 1 point f of Regulation (EU) 2016/679 of the European Parliament and of the 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) (Dz. U. UE. L. of 2016. No. 119, p. 1, as amended), hereinafter "GDPR", which means, in this situation, that your personal data are necessary for us to establish your entitlement to enter into or perform a contract, as well as to maintain a business relationship in connection with the conclusion or performance of a contract to which the entity indicating you as a representative to enter into or perform the contract is a party, or to maintain a business relationship in connection with the conclusion or performance of the contract.

**How long will we process the data?**

Personal data will be processed for the period necessary for the performance of the subject matter of the contract as well as for the maintenance of the business contact related to the conclusion or performance of the contract, as well as for the period necessary for the storage of this contract for archival purposes.

**Where do we get the data from?**

We have obtained the personal data from the entity with which we have entered into the contract and which has designated you for its conclusion, performance or business contacts related to the conclusion or performance of the contract.

**What categories of data do we process?**

The following categories of personal data are currently processed:

- Basic data (for identification purposes) such as your name,
- Contact data (to enable contact by post, telephone or email) in particular such as telephone number, registered office address, email address,
- Other identification data entered in relevant registers or indicated in powers of attorney or other documents (in order to verify the right to conclude or perform a contract), e.g. PESEL, function / official position, address of residence, ID card number indicated in the documents provided or entered in relevant registers.

**Do we make automated decisions, including profiling you?**

We do not make automated decisions, including profiling you based on your personal data.



### **What are your rights?**

You have the right to:

- access personal data, i.e. the right to obtain information regarding which data, how and for what purpose is processed by us;
- rectification, i.e. request for data updates, if it turns out that incorrect data has been collected or is no longer valid;
- deletion of personal data, i.e. the request to delete all or part of personal data. If the request is justified, we will immediately delete the data;
- processing restrictions, i.e. the request to limit the processing of your data to their storage. The restriction on processing may be waived after the conditions justifying the restriction of processing cease to exist
- objecting to the processing, i.e. ceasing to process personal data for the purpose indicated above, if in your opinion we are violating your rights in connection with the processing of the data.
- file a complaint on us to the President of the Office for Personal Data Protection if you believe that the processing of your personal data violates the law.

### **Contact - Where can you exercise your rights or get more information?**

The Administrator of your personal data will be **Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. with its registered office in Warsaw**, at 4 Mszczonowska Str., 02-337 Warsaw. You can exercise your rights (or get more information) by contacting us through:

rodo@gaz-system.pl