

This

# FRAMEWORK AGREEMENT ON THE PROVISION OF GAS STORAGE AND RESTRICTION OF THE STORED GAS DISPOSAL

has been concluded between the following contracting parties:

**NET4GAS, s.r.o.**, with its registered office in Prague 4 - Nusle, Na Hřebenech II 1718/8, Postal Code 14021, ID No.: 27260364, registered in the Commercial Register kept at the Municipal Court in Prague, Section C, Entry 108316, Bank Account No. 217848053/0300 kept at Československá obchodní banka, a.s., on behalf of which Andreas Rau and Václav Hrach acts, contact person Tomáš Vyležík, e-mail: aukce@net4gas.cz

(hereinafter “**NET4GAS**” or “**Transmission System Operator**”)

and

**RWE Gas Storage CZ, s.r.o.**, with its registered office in Limuzská 3135/12, Praha 10 - Strašnice, Postal Code 108 00, ID No.: 27892077, registered in the Commercial Register kept at the Municipal Court in Prague, Section C, Entry 124711, represented by Zbyněk Pokorný and Zuzana Kotyková, contact person Zbyněk Pokorný, email: gs.aukce@rwe.com

(hereinafter the “**Gas Storage Operator**”)

and

(hereinafter the “**Auction Participant**”)

(NET4GAS, the Auction Participant and the Gas Storage Operator are hereinafter jointly referred to as the “**Parties**” and each individually as a “**Party**”)

## **WHEREAS:**

- (A) NET4GAS holds a licence for gas transmission within the meaning of Section 4(1)(b)(2) in conjunction with Section 4(2) of Act No. 458/2000 Coll., on the Conditions of Business and the Exercise of State Administration in the Energy Sectors and on Amendments to Certain Acts (the Energy Act), as amended (hereinafter the “**Energy Act**”);
- (B) NET4GAS has been authorised by Crisis Measure No. MPO 22638/22/41200/01000 of the Ministry of Industry and Trade dated 28 April 2022 issued pursuant to Section 12a of Act No. 240/2000 Coll., on Crisis Management and on Amendments to Certain Acts (the Crisis Act), as amended, to conduct auctions for the provision of gas storage in gas storage facilities within the territory of the Czech Republic (hereinafter the “**Auction(s)**”) under the terms and conditions further specified in the Crisis Measure (hereinafter the “**Crisis Measure**”);

- (C) The Crisis Measure imposed an obligation on the Gas Storage Operator to provide the Transmission System Operator with the necessary cooperation to contractually secure gas storage in gas storage facilities for the storage year 2022/2023 and to contractually establish a special status account (account) for each holder of storage capacity in a gas storage facility on the basis of a contract negotiated with the Gas Storage Operator or a user of storage capacity on the basis of another legal fact, on which the amount of gas the storage of which has been tendered by the gas market participant in the Auction will be recorded. Therefore, the Gas Storage Operator shall, within the meaning of the Crisis Measure, set up a special status account for anyone who negotiates such contract and holds storage capacity in the gas storage facility for the storage year 2022/2023 on the basis of a contract negotiated with the Gas Storage Operator or the storage capacity user on the basis of another legal fact;
- (D) It is the intention of the Gas Storage Operator to establish a Special Status Account for the Auction Participant in accordance with paragraph (C) of the Preamble hereof, in which stored gas would be subject to specified restrictions in order to ensure security of supply in the storage year 2022/2023;
- (E) The Auction Participant is interested in participating as a gas trader in auctions announced by the Transmission System Operator on the basis of the Crisis Measure pursuant to paragraph (B) of the Preamble hereof and, for appropriate compensation, to inject and store or transfer gas to the Special Status Account established pursuant to paragraph (C) of the Preamble hereof and to submit to the restriction of the disposal of the quantity of gas recorded on the Special Status Account;
- (F) In order to fulfil the purpose of the Crisis Measure and to ensure sufficient amount of gas in storage throughout the entire storage year 2022/2023, the Auction Participant's obligation to inject and store or transfer gas to the Special Status Account established pursuant to paragraph (C) of the Preamble hereof shall be secured by a contractual penalty;

## **THE PARTIES HAVE AGREED AS FOLLOWS:**

### **1.1. Definitions and Interpretation**

- 1.1.1. Unless the context requires otherwise, the following terms, when capitalized or written in capital letters, shall have the following meanings:

**“Agreement”** means this Framework Agreement, as may be amended and supplemented from time to time.

**“Auction”** has the meaning given in paragraph (B) of the Preamble hereof.

**“Auction Terms and Conditions”** mean the terms and conditions of the Auction announced by NET4GAS for the purpose of implementing the Crisis Measure, to which the Auction Participant has agreed by submitting a Bid.

**“Beneficial Owners Registration Act”** means Act No. 37/2021 Coll., on the Registration of Beneficial Owners, as amended.

**“Bid”** means a bid submitted by an Auction Participant in an announced Auction that has been selected as successful in the Auction.

**“CC”** means Act No. 89/2012 Coll., the Civil Code, as amended.

**“Contract Price”** has the meaning set out in Article 3.1.1 of this Agreement.

**“Crisis Measure”** means a measure of the Ministry of Industry and Trade pursuant to paragraph (B) of the Preamble hereof.

**“Energy Act”** means Act No. 458/2000 Coll., on the Conditions of Business and the Exercise of State Administration in the Energy Sectors and on Amendments to Certain Acts (the Energy Act), as amended, pursuant to paragraph (A) of the Preamble hereof.

**“European Union Sanctions Lists”** mean the European Union Sanctions Lists maintained in connection with the unlawful activities of the Russian Federation and the Republic of Belarus with respect to Ukraine and shall mean, as of the date of the conclusion of this Agreement, in particular, but not limited to: all and also autonomous EU sanctions provided for in the basic sanctions legislation, which are, for example, Council Decision 2014/119/CFSP and Council Regulation (EU) No. 208/2014; Council Decision 2014/145/CFSP and Council Regulation (EU) No. 269/2014; Council Decision 2014/386/CFSP and Council Regulation (EU) No. 692/2014; and Council Decision 2014/512/CFSP and Council Regulation (EU) No. 833/2014; the list contained in Annex I to Regulation (EU) No. 269/2014; Council Decision (CFSP) 2022/395 (amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s activities destabilising the situation in Ukraine); Council Regulation (EU) 2022/394 (amending Regulation (EU) 833/2014 concerning restrictive measures in view of Russia’s activities destabilising the situation in Ukraine); Council Decision (CFSP) 2022/399 (amending Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus); Council Regulation (EU) 2022/398 (amending Regulation (EC) No. 765/2006 concerning restrictive measures in view of the situation in Belarus); Council Decision (CFSP) 2022/430 (amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia’s activities destabilising the situation in Ukraine).

**“Force Majeure”** has the meaning set out in Article 5.1.1 of this Agreement.

**“Gas Market Rules”** mean Decree No 349/2015 Coll., on Gas Market Rules, as amended.

**“Parties”** have the meaning set out above in the introductory provisions of this Agreement.

**“Special Status Account”** means a special account of the Auction Participant established by the Gas Storage Operator pursuant to the terms of this Agreement in addition to the account established pursuant to the Gas Storage Contract entered into between the Auction Participant and the Gas Storage Operator under the terms of that Gas Storage Contract, whereby in the event of a conflict between the terms of the two contracts, the terms of this Agreement shall prevail over the terms of the Gas Storage Contract.

**“Subcontract”** means a contract for the provision of gas storage and restriction of the stored gas disposal entered into pursuant to this Agreement and in accordance with the Auction Terms and Conditions, as confirmed by the selection of a Bid in the Auction, the subject matter of which is the obligation of the Auction Participant to secure, on the basis of a gas storage contract or other legal title, the storage of gas in MWh in a gas storage facility in the territory of the Czech Republic operated by the Gas Storage Operator and directly connected to the transmission system of the Czech Republic or the waiver of the right to free disposal of the already stored gas in such gas storage facility, to the extent of the accepted Bid in the Auction and at the Contract Price.

**“VAT”** means value added tax.

**“VAT Act”** means Act No. 235/2004 Coll., on Value Added Tax, as amended.

1.1.2. Terms not defined in this Agreement shall have the meaning assigned to them in the legal regulations in which they are defined or used, in particular in the Energy Act and the Gas Market Rules.

## **2. *Subject-Matter of the Agreement and Obligations of the Parties***

### **2.1. Subject-Matter of the Agreement and Joint Obligations of the Parties**

2.1.1. The subject-matter of this Agreement is the regulation of the contractual terms and conditions under which the Auction Participant is obliged to provide gas storage in MWh in a gas storage facility in the territory of the Czech Republic directly connected to the transmission system of the Czech Republic operated by the Gas Storage Operator within the scope and timeframe according to this Agreement or the Subcontract to be concluded by selecting a Bid in the Auction; furthermore, the subject - matter of this Agreement is the regulation of the conditions under which the Auction Participant is obliged to submit to the restriction of the disposal of the quantity of gas corresponding to the quantity of gas within the scope of the Subcontract registered on the Special Status Account to be established by the Gas Storage Operator pursuant to Article 2.3.1 below and the obligation of NET4GAS to pay the Auction Participant the Contract Price pursuant to Article 3.1 hereof. The Subcontract may be concluded on the basis of the result of the Auction up to a maximum of the storage capacity under the Gas Storage Contract previously concluded between the Auction Participant and the Gas Storage Operator.

2.1.2. The Parties undertake to provide each other with all the cooperation necessary to perform their obligations under this Agreement. The Parties shall inform each other of the need for such cooperation without undue delay after such need arises and shall proceed so that any obstacles to the performance of their respective obligations under this Agreement are eliminated as soon as possible.

### **2.2. Obligations of the Auction Participant**

2.2.1. The Auction Participant undertakes:

- (a) to inject and store in the gas storage facility on the Special Status Account established pursuant to Article 2.3.1 of this Agreement a quantity of gas in MWh corresponding to the quantity of gas under the Subcontract no later than the time limit for the injection of gas according to the parameters of the announced Auction starting on the first gas day following the negotiation of the Subcontract, unless the subject of the Auction was to secure the storage and waiver of the disposal of gas already stored at the time of the Auction; or
- (b) to transfer in the gas storage facility onto the Special Status Account established pursuant to Article 2.3.1 of this Agreement no later than the second day after the negotiation of the Subcontract the amount of gas in MWh corresponding to the amount of gas under the Subcontract, if the subject of the Auction was to secure

the storage and waiver of the disposal of gas already stored in the gas storage facility at the time of the Auction.

2.2.2. The Auction Participant's obligation under Article 2.2.1 of this Agreement shall be deemed fulfilled upon recording the full quantity of gas injected and stored in MWh under the Subcontract on the Special Status Account in the case under Article 2.2.1(a) of this Agreement or upon transferring the full quantity of gas in MWh under the Subcontract to the Auction Participant's Special Status Account under Article 2.2.1(b) of this Agreement.

2.2.3. The Auction Participant further undertakes to submit to the restriction of the disposal of the quantity of gas recorded on the Special Status Account pursuant to Article 2.2.1 of this Agreement in the following manner:

(a) during the period from the execution of this Agreement until 31 October 2022, the Auction Participant shall not be able to withdraw any quantity of gas from the Special Status Account or transfer gas from the Special Status Account; and

(b) during the period from 1 November 2022 to 1 February 2023, the Auction Participant shall not be able to withdraw gas from the Special Status Account or transfer more gas from the Special Status Account than the amount allowing in the period:

1. from 1 November 2022 to 30 November 2022 (by the end of the gas day that begins in the course of 30 November 2022), at least 80% of the gas quantity in MWh corresponding to the Subcontract or the sum of the gas quantities under all Subcontracts tendered in the Auctions to be recorded on the Special Status Account;

2. from 1 December 2022 to 31 December 2022 (until the end of the gas day that begins in the course of 31 December 2022), at least 60% of the gas quantity in MWh corresponding to the Subcontract or the sum of the gas quantities under all Subcontracts tendered in the Auctions to be recorded on the Special Status Account,

3. and from 1 January 2023 to 31 January 2023 (by the end of the gas day that begins in the course of 31 January 2023), at least 34% of the amount of gas in MWh corresponding to the Subcontract or the sum of the amount of gas under all Subcontracts tendered in the Auctions to be recorded on the Special Status Account.

2.2.4. If the Auction Participant does not have a contractually established Special Status Account to which nominations or renominations for gas injection and withdrawal can be directly submitted, the Auction Participant is obliged to notify the Gas Storage Operator no later than by 08:00 p.m. on the gas day to the email address [gdispatching@rwe.com](mailto:gdispatching@rwe.com) of the quantity of gas injected or withdrawn to/from the gas storage facility to be recorded on the Special Status Account and the quantity of gas to be recorded on another status account kept with the Gas Storage Operator. If the Auction Participant fails to comply with the obligation under the first sentence above, in the case of injection, the total nomination or any subsequent renomination of the gas injection shall be recorded on the Special Status Account up to its maximum value given by the sum of the quantities under

all Subcontracts and, in the case of withdrawal, the quantity of gas withdrawn shall be deducted first from the other status accounts up to their zero value and subsequently from the Special Status Account. The total increment of the gas quantity recorded on the Special Status Account for any gas day shall not be higher than the difference of the gas quantity under all nominations and renominations for gas injection and withdrawal of the Auction Participant to/from the gas storage facility of the Gas Storage Operator on that particular gas day.

- 2.2.5. If the Auction Participant has negotiated more than one Subcontract, the injection of gas into the gas storage facility shall always be credited to the performance of the Subcontract that was concluded first. Gas injections under Subcontracts negotiated at a later date shall be credited to the performance of the later Subcontracts in the order in which they were concluded, always after the full quantity of gas has been injected and recorded on the Special Status Account under the previous Subcontract. The provisions of the first and second sentences above shall apply mutatis mutandis to transfers of gas quantities from another status account of the Auction Participant to the Special Status Account in the event that the Auction Participant has negotiated several Subcontracts on the basis of Auctions, the subject of which was to secure the storage and waiver of the disposal of gas already stored in the gas storage facility at the time of the Auction.
- 2.2.6. If the subject of the Auction was to secure the storage and waiver of the disposal of gas already stored in the gas storage facility at the time of the Auction, the gas already recorded on the Special Status Account of the Auction Participant cannot be transferred to the performance under the Subcontract.
- 2.2.7. The Auction Participant acknowledges that the obligation under Article 2.2.1 of this Agreement is subject to a contractual penalty in accordance with Article 6.1 of this Agreement and a failure to fulfil this obligation shall entitle NET4GAS to the payment of the contractual penalty and shall give rise to the right of NET4GAS to withdraw from this Agreement under the terms and conditions further set out herein.

### **2.3. Obligations of the Gas Storage Operator**

- 2.3.1. The Gas Storage Operator undertakes by this Agreement to set up and maintain for the Auction Participant a Special Status Account for gas storage immediately after the conclusion of this Agreement and for the duration of this Agreement under the terms of Article 2.2.3 of this Agreement and to ensure that the Auction Participant is restricted in the disposal of gas recorded on the Special Status Account so that the Auction Participant cannot withdraw or transfer from gas storage facility under the Special Status Account more gas than the quantity set forth in Article 2.2.3 hereof. The Gas Storage Operator undertakes to allow transfers of gas to the Special Status Account from another account of the same Auction Participant under the terms of this Agreement free of charge.
- 2.3.2. For the purposes of verifying compliance with the Auction Terms and Conditions and the performance of the Subcontracts, the Gas Storage Operator undertakes to provide NET4GAS, upon request, with information on whether the Auction Participant has negotiated a Gas Storage Contract with the Gas Storage Operator, the size of the agreed storage capacity, other necessary technical conditions of the Gas Storage Contract, and the performance of the Auction Participant's obligations under the Subcontracts. The Auction

Participant agrees with the provision of the information referred to in the first sentence above.

- 2.3.3. The Gas Storage Operator shall send NET4GAS by 12:00 noon of each day the total amount of gas recorded or transferred to the Special Status Account and the daily increment of the amount of gas on the Special Status Account of each Auction Participant for the previous gas day. The Auction Participant acknowledges that the information referred to in the first sentence above will be further used by the Gas Storage Operator to fulfil its obligation imposed by the Crisis Measure to inform the Ministry of Industry and Trade and the Energy Regulatory Authority at least once a week about the amount of gas stored in gas storage facilities on the basis of auctions conducted pursuant to the Crisis Measure.

#### **2.4. Obligations of NET4GAS**

- 2.4.1. NET4GAS undertakes, in accordance with the payment terms set forth in Article 3.2 hereof and upon receipt of the summary sent by the Gas Storage Operator pursuant to Article 2.3.3 hereof, to pay the Contract Price if the Auction Participant becomes entitled to its payment.

### **3. *Contract Price and Payment Terms***

#### **3.1. Contract Price**

- 3.1.1. The Contract Price is the price in Czech crowns (CZK) tendered in the Auction in accordance with the Subcontract and the Auction Terms and Conditions, which is included in the confirmation of the selection of the Bid sent to the Auction Participant in accordance with the Auction Terms and Conditions.

- 3.1.2. The Auction Participant shall be entitled to the payment of the Contract Price if it duly and timely fulfils the obligation to inject and store the gas quantity pursuant to the Subcontract and its recording on the Special Status Account pursuant to Article 2.2.1(a) hereof or the obligation to transfer the gas quantity to the Special Status Account pursuant to Article 2.2.1(b) hereof.

#### **3.2. Payment Terms**

- 3.2.1. The Contract Price shall be paid by NET4GAS on the basis of an invoice issued by the Auction Participant. NET4GAS shall pay the Contract Price by transferring the corresponding amount to the bank account of the Auction Participant specified in the heading of this Agreement or, if different from the bank account of the Auction Participant specified in the heading of this Agreement, to the bank account specified in the invoice pursuant to Article 3.2.2 hereof.

- 3.2.2. Each invoice issued shall contain at least the identification of the Auction Participant, the invoiced amount, the identification of the Subcontract for which the Auction Participant has fulfilled the obligation under Article 2.2.1 hereof, the date of the invoice and the bank account to which the invoiced amount is to be paid. The amount to be paid on the basis of the invoice is not subject to VAT.

- 3.2.3. The invoice shall be sent electronically to [podatelna@net4gas.cz](mailto:podatelna@net4gas.cz) and shall be payable within 21 days of its delivery to NET4GAS. The Parties agree that the obligation of NET4GAS to pay the Contract Price under this Article of the Agreement shall be deemed fulfilled on the date on which the amount corresponding to the Contract Price is transferred from the NET4GAS bank account specified in the heading of this Agreement to the Auction Participant.
- 3.2.4. NET4GAS may return the invoice to the Auction Participant if it does not contain the prescribed essentials or if it has other material defects. NET4GAS will return the invoice to the email address from which it was received and will state the reason for its return. The Auction Participant shall correct or reissue the invoice according to the nature of the irregularity. Upon return of the invoice to the Auction Participant, the original maturity of the invoice shall be suspended. The maturity of the new or corrected invoice shall be 21 calendar days after the date of its delivery to NET4GAS. If NET4GAS disputes the amount invoiced by the Auction Participant, the Auction Participant undertakes to issue a correction document to the original invoice based on the agreement of the Parties on the undisputed amount.
- 3.2.5. NET4GAS shall pay the undisputed amount based on the newly issued invoice as specified in Article 3.2.4 above.

#### **4. *Representations and Warranties of the Parties***

- 4.1.1. The Auction Participant hereby represents and warrants that:
- (a) it holds a licence for gas trading within the meaning of Section 4(1)(c)(2) of the Energy Act, or has been recognised by the Energy Regulatory Authority as having been granted a licence for gas trading by a competent authority of another Member State of the European Union within the meaning of Section 7a of the Energy Act;
  - (b) it is not an entity appearing on the European Union Sanctions List, nor is it owned, co-owned or controlled by such an entity, nor is an entity appearing on the European Union Sanctions List its beneficial owner under the Beneficial Owners Registration Act, regardless of the size of such entity's ownership interest, if any;
  - (c) it is not in bankruptcy;
  - (d) it is not in inhibitor nor was it required to submit a declaration of its assets;
  - (e) to the best of its knowledge, no insolvency petition has been filed against it and no such petition is reasonably imminent; and
  - (f) to the best of its knowledge, no application for an order for execution or for enforcement of a decision has been made against it and no such application is reasonably imminent.



4.1.2. NET4GAS hereby represents and warrants that:

- (a) it is a holder of a gas transmission licence within the meaning of Section 4(1)(b)(2) in conjunction with Section 4(2) of the Energy Act;
- (b) it is not in bankruptcy;
- (c) it is not in inhibitor nor was it required to submit a declaration of its assets;
- (d) to the best of its knowledge, no insolvency petition has been filed against it and no such petition is reasonably imminent; and
- (e) to the best of its knowledge, no application for an order for execution or for enforcement of a decision has been made against it and no such application is reasonably imminent.

4.1.3. A Party shall be entitled to claim compensation from the other Party compensation for any damage resulting from any of the above representations and warranties being untrue or incomplete.

## **5. *Obligations of the Parties in the Case of Force Majeure***

### **5.1. Force Majeure**

5.1.1. Force Majeure means any extraordinary, unforeseeable and insurmountable obstacle that has occurred independently of the will of the obligated Party and has prevented it from fulfilling its obligation under the Agreement (hereinafter “**Force Majeure**”). However, neither an obstacle arising from the personal circumstances of the obliged Party or arising only at the time when the obliged Party was already in default of the performance of the agreed obligation, nor an obstacle which the obliged Party was obliged to overcome, shall constitute Force Majeure.

5.1.2. For the purposes of this Agreement, Force Majeure shall be deemed to include, but not be limited to:

- (a) the impossibility of injecting gas into the gas storage facility due to the impossibility of acquiring gas on the wholesale market and transporting it to the Czech Republic, in particular due to restrictions on gas supplies to the European Union from the country of origin;
- (b) the compulsory withdrawal or other disposal of stored gas in order to fulfil an obligation or obligations under regulations governing the prevention, management or consequences of an emergency in the gas sector or obligations imposed by a public authority under those regulations, regulations governing crisis management or directly applicable European Union legislation; or
- (c) an unplanned outage (e.g. a shutdown due to a malfunction or stabilization outage)

in the operation of the gas storage facility or gas storage system on the part of the Gas Storage Operator that prevents gas from being injected into the gas storage facility and recorded on the Special Status Account in the quantity required under this Agreement.

## **5.2. Obligations of the Parties in the Case of Force Majeure**

5.2.1. The occurrence of a Force Majeure event shall relieve the Party from the obligation to perform its obligations under this Agreement to which the Force Majeure event relates for the duration of the Force Majeure event. If a Party breaches, violates, or is expected, in light of all known facts, to breach its obligation under this Agreement as a result of a Force Majeure event, it shall promptly notify the other Parties in writing of such breach or event and the expected duration thereof and shall exert its best efforts to avert and remedy such event or its consequences.

## **6. *Penalty Clauses and Damage Compensation***

### **6.1. Contractual penalties**

6.1.1. In the event that the Auction Participant fails to comply with the obligation under Article 2.2.1 of this Agreement, i.e. fails to inject and store in the gas storage facility on the Special Status Account the quantity of gas under the Subcontract or fails to transfer in the gas storage facility on the Special Status Account the quantity of gas under the Subcontract within the time limit under Article 2.2.1. hereof, NET4GAS shall be entitled to payment of a contractual penalty in the amount of the product of the quantity of gas in MWh that in breach of the Auction Participant's obligation set out in Article 2.2.1 hereof is not recorded on the Special Status Account pursuant to Article 2.2.1(a) of this Agreement or transferred to the Special Status Account pursuant to Article 2.2.1(b) of this Agreement on the first day following the day on which the obligation under Article 2.2.1 of this Agreement should have been fulfilled, and the Contract Price in CZK/MWh pursuant to the Subcontract.

### **6.2. Delay with the Performance of a Monetary Obligation**

6.2.1. In the event of delay by any Party in the payment of any monetary obligation under this Agreement, the Party in whose favour the monetary obligation is to be paid shall be entitled to claim default interest against the Party in default at the rate of 0.05% of the amount due for each day of delay with the payment of such obligation, and the Party in default shall pay the default interest.

### **6.3. Invoicing and Payment of Penalties**

6.3.1. If a Party has a claim for payment of any penalty under the preceding Articles of this Agreement, it shall issue an invoice to the other Party quantifying the amount of the claim. If the other Party does not agree with the amount of the invoiced claim, it shall express its disagreement with the amount of the claim within fourteen (14) days from the date of the invoice; otherwise it shall be deemed to agree with the amount of the claim. Such invoice shall be due and payable within fourteen (14) days from the date of its delivery to the obliged Party, and the obligation under this Article shall be deemed fulfilled on the date on which the relevant amount is debited from the bank account of the obliged Party specified

in the heading of this Agreement.

#### **6.4. Other Arrangements**

6.4.1. Except as otherwise provided in other provisions of this Agreement, payment of the contractual penalty shall not affect the obligations of the Parties to perform their obligations under this Agreement in a proper and timely manner or the possibility of early termination of the obligations under this Agreement.

6.4.2. In the event that a Party pays the other Party any contractual penalty under this Agreement, the Party in whose favour the contractual penalty was paid may continue to claim damages from the other Party for the breach of the obligation in question in an amount exceeding the amount of the contractual penalty.

### **7. *Duration of Obligations under this Agreement and Rules for Termination of Obligations under this Agreement***

#### **7.1. Effectiveness of the Agreement**

7.1.1. This Agreement shall become effective upon its signing by all Parties.

7.1.2. This Agreement has been concluded for a definite period of time, until the end of the gas day commencing on 31 March 2023. For the avoidance of doubts, the Parties expressly agree that the end of the emergency state under which and as a result of which the Crisis Measure was issued shall not affect the effectiveness of this Agreement and the duration of the obligation arising hereunder.

#### **7.2. Effectiveness of the Subcontract**

In accordance with the Auction Terms and Conditions, the Subcontract shall become effective upon the selection of a Bid in the Auction.

#### **7.3. Rules for Termination of Obligations under this Agreement**

7.3.1. For the avoidance of doubts, the Parties expressly agree that the obligations under the Agreement may be terminated only by agreement of all Parties, by withdrawal or by termination in accordance with the following Articles of this Agreement, and that the withdrawal from or termination of the Agreement by either Party shall terminate the Agreement as a whole.

##### **Termination of the Agreement**

7.3.2. The Parties agree and acknowledge that NET4GAS may terminate this Agreement at any time without giving any reasons, with three months' notice. The notice period shall commence on the first day of the month following the delivery of the termination notice to the data box of the Auction Participant or the Gas Storage Operator, whichever is later. The Parties expressly agree that the Auction Participant shall not be obliged to refund the Contract Price, even in part, if the Agreement has terminated as a result of NET4GAS's termination after the Auction Participant has become entitled to payment of the Contract Price by NET4GAS.

### **Withdrawal from the Agreement**

- 7.3.3. A Party may withdraw from this Agreement in the event of a material breach hereof by another Party, subject only to the conditions set out below in this Article of the Agreement, by means of withdrawal notice served on both the other Parties into their data box. The Agreement shall terminate upon delivery of the withdrawal notice to the Party to which the withdrawal notice is delivered later. The Parties shall thereafter be obliged to settle any and all performances rendered between themselves hereunder.
- 7.3.4. NET4GAS may withdraw from this Agreement if:
- (a) the Auction Participant fails to comply with the obligation to inject and store or to transfer the quantity of gas in the Special Status Account pursuant to Article 2.2.1 of this Agreement;
  - (b) the Gas Storage Operator fails to comply with the obligation under Article 2.3.1 of this Agreement and fails to establish or maintain a Special Status Account for the Auction Participant during the term of the Agreement; or
  - (c) the Auction Participant's representation pursuant to Article 13.1.1(a) and 13.1.1(b) hereof proves to be untrue.
- 7.3.5. The Auction Participant and the Gas Storage Operator may withdraw from this Agreement if:
- (a) NET4GAS fails to pay the Contract Price to the Auction Participant, although it was obliged to do so under the terms of this Agreement; or
  - (b) the NET4GAS representation pursuant to Article 4.1.2(a) hereof proves to be untrue.
- 7.3.6. The Gas Storage Operator may withdraw from this Agreement if for any reason the obligation under the Gas Storage Contract or any other legal title entitling the Auction Participant to store gas, the existence of which is a prerequisite for the performance of the Auction Participant's obligation under the Subcontract, is terminated.
- 7.3.7. Withdrawal from the Agreement shall not affect the right of any Party to payment of a contractual penalty or default interest, which the other Party is obliged to pay under this Agreement.

### **Consequences of Termination of Obligations under the Agreement**

- 7.3.8. The termination of any obligations under this Agreement shall not result in the termination of:
- (a) claims for compensation for damages, payment of contractual penalties and payment of default interest agreed for breach of contractual obligations arising before the termination of the obligations under this Agreement;
  - (b) the Auction Participant's claim for payment of the Contract Price for performance

under this Agreement; and

- (c) obligations of the Parties that are expressly required by the Agreement to survive the termination of the obligations under the Agreement or that are expressly required to survive by law.

## **8. *Final Provisions***

- 8.1.1. The rights and obligations of the Auction Participant and the Gas Storage Operator under the Gas Storage Contract concluded between them are not affected by this Agreement, unless this Agreement expressly provides otherwise. In particular, the Auction Participant acknowledges that the conclusion of this Agreement shall not limit its obligations towards the Gas Storage Operator under the Gas Storage Contract(s) concluded with the Gas Storage Operator and, in particular, that its obligation to pay in a due and timely manner for the storage service shall continue, irrespective of whether it receives due and timely payment of the Contract Price under this Agreement. To the extent that this Agreement requires or contemplates notification, provision of information or another form of communication between the Parties, the Parties shall notify, provide information or otherwise communicate in accordance with the procedure and using the contact details set out in the Gas Storage Contract agreed between the Parties.
- 8.1.2. Each Party hereby consents to the provision of information to the other Parties to the extent necessary to fulfil the purpose hereof.
- 8.1.3. The Parties mutually undertake not to disclose in any manner, without the written consent of the concerned Party, any information about the contents of this Agreement which has come to their knowledge in connection with the Agreement, except for publicly published information and disclosure of information for the purpose of fulfilling legal obligations, even to a partial extent to a third party, except for public authorities to whom the respective Party is obliged to provide information and for persons who are officers, agents and employees of the respective Party for whom the provision of such information is also necessary for the fulfilment of the purpose of this Agreement, and persons engaged by the Party for the fulfilment of the purpose of this Agreement, in which case the disclosing Party shall enter into a confidentiality agreement with such person. The obligation to protect confidential information under the preceding sentence shall survive the termination of the obligations under this Agreement.
- 8.1.4. Each Party represents that it has negotiated and entered into this Agreement without acting under duress or lacking the expertise necessary to negotiate the contents hereof. Therefore, the Parties do not see any reason for the application of the weaker party clause within the meaning of Section 433 of the CC, and each of them assumes the risk of a change of circumstances within the meaning of Section 1765(2) of the CC and therefore excludes the application of Sections 1764, 1765(1) and 1766 of the CC.
- 8.1.5. Neither Party may assign, even in part, or otherwise cause to be assigned or transferred any of its rights or obligations under this Agreement, or create any third party rights thereto, without prior written consent of the other Parties, except for succession by operation of law.
- 8.1.6. The Parties agree to resolve any disputes concerning the interpretation and performance of

