

Dated [●] 2019

Contract Agreement

to the Contract

between

NET4GAS s.r.o.

Employer

[●]

Contractor

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This contract (the “**Contract Agreement**”) is entered into ~~on [●]2019~~ by and between:

- (1) **NET4GAS, s.r.o.**, Identification No. 272 60 364, with its registered office at Na Hřebenech II 1718/8, Prague 4 - Nusle, Postal Code: 140 21, entered in the Commercial Register administered by the Prague Municipal Court under File No. C 108316, acting through [●], Executive and [●], Executive (the “**Employer**”);

and

- (2)

(the “**Contractor**”);

(the Employer and Contractor collectively hereinafter also the “**Parties**” and individually a “**Party**”)

Whereas:

- (A) The Employer intends to implement the project designated as “Capacity4Gas - DE/CZ”, which includes a pipeline between the Distribution Node Kateřinský potok and the Distribution Node Přimda, Czech Republic (the “**Project**”);
- (B) As part of the Project, the Employer would like the Contractor to build LOT II, which comprises a pipeline between the Line Valve Station TU53S – Malměřice (excluding this station) and the Distribution Node Přimda (excluding this station), Czech Republic (the “**Pipeline**”);
- (C) The Employer has chosen the Contractor in a negotiated tender with publication procedure under Act No. 134/2016 Coll., the Public Procurement Act.

Now, therefore, the Parties have agreed as follows:

1. Introductory Provisions

- 1.1 In this Contract Agreement words and expressions shall have the same meanings as in the Conditions.
- 1.2 The following documents shall form, and shall be construed as part of, the Contract:
 - (a) This Contract Agreement;
 - (b) Conditions, i.e. a consolidated version of the FIDIC Red Book (1st ed. 1999) General Conditions and Particular Conditions;
 - (c) Annex No. 1 – Employer's Requirements;
 - (d) Annex No. 2 – SPRQ and Schedule of Hourly Rates;
 - (e) Annex No. 3 – Termination Payment Table;
 - (f) Annex No. 4 – Form of Guarantees;
 - (g) Annex No. 5 – Form of Certificates and Notices;
 - (h) Annex No. 6 – Insurance;

- (i) Annex No. 7 – Code of Conduct;
- (j) Annex No. 8 – List of internal documents for performance of service;
- (k) Annex No. 9 – Contractor's Proposal;
- (l) Annex No. 10 – ROW Requirements;
- (m) Annex No. 11 – Requirements with respect to the Personal Data Processing;
- (n) Annex No. 12 – Construction Documentation – C4G Project.

2. Subject of the Contract

2.1 Contractor's Scope

The Contractor shall duly and timely complete the Works, as evidenced by the issuance of the Preliminary Taking-Over Certificate and the Taking-Over Certificate under Sub-Clause 10.1 of the Conditions. In particular, the Contractor shall perform the following activities as part of the Works:

- (a) taking-over of the Site and the documentation provided by the Employer;
- (b) preparation of the Detail Design of the Works, including all surveys necessary for the Detail Design and construction of the Works;
- (c) mobilization and preparation of the Temporary Works;
- (d) management (operation [and security](#)) of the pipe yards;
- (e) preparation of the Site for the purposes of performance of the Works (including removal of existing structures and natural plants);
- (f) taking-over and installation of the Employer's Plant and Materials;
- (g) obtaining all required permits ([except for the Joint Permit](#));
- (h) construction of the Works;
- (i) deliveries [and installation](#) of Plant and Materials ([except for the Employer's Plant and Materials](#));
- (j) construction management;
- (k) coordination of works to be conducted by the Other Employer's Contractors necessary for the completion of the Pipeline and cooperating with the Employer in the identification of defects of the works executed by the Other Employer's Contractors;
- (l) health and safety management in accordance with Laws;
- (m) communication with the relevant land owners and authorities with respect to rights of way until the hand-over of the re-cultivated land plots to land owners and ensuring compliance with the ROW Requirements;
- (n) fulfilment of the requirements specified in the Joint Permit, Existing Authorities' Statements and New Authorities' Statements, including those requirements which are addressed to the investor (in Czech *investor*) or the constructor (in Czech *stavebník*) or similar;

- (o) supply of Spare Parts in accordance with Sub-Clause 7.9 [*Spare Parts*] of the Conditions;
- (p) warehouse management;
- (q) mechanical completion of the Works;
- (r) pre-commissioning of the Works;
- (s) commissioning of the Works;
- (t) elaboration of as-built documentation and operation and maintenance manuals for the Works;
- (u) obtaining the Trial Operation Permit for the Works on behalf of the Employer in accordance with Sub-Clause 2.2 of the Conditions and assistance with the trial operation of the Works;
- (v) obtaining the Final Operation Permit for the Works on behalf of the Employer in accordance with Sub-Clause 2.2 of the Conditions;
- (w) participating in the inspections and taking-over of the works executed by third-party contractors on Site and review their compliance with the Employer's Requirements and notify any discrepancies to the Employer;
- (x) ~~taking-over~~handing-over of the Works;
- (y) demobilization and disposal of removed equipment and leftover material;
- (z) removal of defects of the Works; and
- (aa) all related works, as defined in the Contract;

all as further specified in the Contract, esp. the documents General Technical Requirements and the Scope of Work (forming part of the Employer's Requirements).

The items specified in Section 8 of the Interface Report are only optional. The Employer shall notify the Contractor at the latest upon issuance of the Notice to Proceed with the construction whether it shall perform also any or all of these optional items. With respect to the optional installation, testing and commissioning of the FOC and the FOC HDPE cable conduits, the Employer shall notify the Contractor at the latest upon the issuance of the partial Notice to Proceed whether it shall perform also such optional item. The Contract Price concerning such optional items is included in Section 5 of the SPRQ.

The Parties hereby expressly agree that any works concerning various parts of LOT I of the Project (from ~~distribution node~~the Distribution Node Kateřinský potok, Czech Republic, to the Line Valve Station TU53S – Malměřice (including this station), Czech Republic) may form part of the Works under this Contract as a Variation.

2.2 Employer's Scope

The Employer shall pay the Contract Price for the execution of the Works to the Contractor.

The Employer shall provide to the Contractor counter-performance for the purposes of the execution of Works as exhaustively listed below:

- (a) access to the Site in accordance with Sub-Clause 2.1 of the Conditions;

- (b) provision of land plots and corresponding title to use such land plots as pipe yards, as specified in the Employer's Requirements;
- (c) cooperation set out in the Employer's Requirements;
- (d) Joint Permit, Existing Authorities' Statements and New Authorities' Statements;
- (e) Employer's Plant and Materials specified in Section 2.9 of the General Technical Requirements forming part of the Employer's Requirements in accordance with the estimated time schedule set out in the Employer's Requirements and the Delivery Plan, once agreed pursuant to Sub-Clause 4.20 of the Conditions;
- (f) documents and information necessary for the Contractor in order to fulfil its obligations specified in Clause 2.3, 2.4 and 2.5 of the Contract Agreement;
- (g) redacted contracts with the suppliers of the Employer's Plant and Materials and the ROW Requirements; and
- (h) [archaeological survey](#);
- (i) ~~(h)~~ as further specified in Sections 7 and 8 of the Scope of Work and relevant Sub-Clauses of the Conditions.

2.3 Interface and Coordination between the Contractor, Employer, and Other Employer's Contractors

The Contractor is aware that the Other Employer's Contractors and Employer may be performing certain activities in the performance of the Works by the Contractor. The Contractor shall be responsible for the coordination of all parties in the performance of this Contract, as defined in the Employer's Requirements, especially by the Interface Report. The Contractor shall not be entitled to accelerate the timing for the performance of any Employer's counter-performance for any reason without the Employer's prior written consent.

The Employer shall authorize the Contractor to act on its behalf vis-à-vis the Other Employer's Contractors for the purposes of coordination of their activities in accordance with the Inspection and Test Plan and the Project Execution Schedule, provided that the Contractor shall not be authorized to amend any of the respective contracts with the Other Employer's Contractors or submit or waive claims on behalf of the Employer. The Contractor shall be liable for due coordination of the Other Employer's Contractors but is not responsible for due performance of obligations by the Other Employer's Contractors and such acts or omissions of the Other Employer's Contractors will be considered as the Employer's Risk under Sub-Clause 17.3 (g) [and \(h\)](#) of the Conditions and/or if such acts or omission of the Other Employer's Contractors caused delay to the Contractor, Sub-Clause 8.4(e) of the Conditions shall apply. This is without prejudice to Contractor's obligation to promptly inform the Employer of any such acts or omissions of the Other Employer's Contractors.

2.4 Preparation of the Project Execution Plan

The Contractor shall elaborate the Project Execution Plan in accordance with the requirements defined in Section 2.4 of the General Technical Requirements. For this purpose, the Contractor shall integrate the inputs, instructions and other documentation provided by the public authorities, the Employer, the Other Employer's Contractors or other third-party contractors in order to achieve timely performance of the Contract. The Project Execution Plan shall include a definition of the critical path of the completion of the Works. The Project Execution Plan shall be approved by the Employer, in accordance with Sub-Clause 5.2 and 8.3 of the Conditions.

2.5 Preparation of the Inspection and Test Plan

The Contractor shall elaborate the Inspection and Test Plan in accordance with the requirements defined in the Inspection Requirements for General Contractor forming part of the Employer's Requirements. For this purpose, the Contractor shall integrate the testing instructions and other documentation provided by the public authorities, the Employer, the Other Employer's Contractors or other third-party contractors in order to achieve timely performance of the Contract. The Inspection and Test Plan shall be approved by the Employer in accordance with Sub-Clause 5.2 of the Conditions.

2.6 Preparation of the PHSE Plan

The Contractor shall elaborate the PHSE Plan in accordance with the requirements defined in Section 2.6 of the General Technical Requirements. The PHSE Plan shall be approved by the Employer, in accordance with Sub-Clause 5.2 and 8.3 of the Conditions.

3. Time for Completion

3.1 General

The Time for Completion and schedule of payments are stated as follows:

(a) 14-Month Scenario

Milestones	Contract Price Payment upon Payment Milestone	Time for Completion [Periods]**	Delay Penalty Rates
1. (a) Delivery of Detail Design Documentation <u>covering first three (3) months of the construction activities</u> <ul style="list-style-type: none"> Detail Design completed and approved by the Employer incl. method statements, the Project Execution Plan, the PHSE Plan, the Inspection and Test Plan and procurement list of material 	2.50.9% of the Contract Price	One <u>Fourteen</u> (+14) month <u>days</u> from the issuance of the Notice to Proceed	0.025 <u>0.015</u> % of the Accepted Contract Amount for first 13 days of delay 0.035% of the Accepted Contract Amount from the 14th day

<p>2. Mobilisation completed <u>1. (b) Delivery of Detail Design Documentation covering months 4 through 6 of the construction activities</u></p>	<p>2.50.8% of the Contract Price</p>	<p>One Two (12) month months from the issuance of the Notice to Proceed</p>	<p>0.050.01% of the Accepted Contract Amount each day of delay*</p>
<p><u>1. (c) Delivery of Detail Design Documentation covering months 7 and all following months of the construction activities</u></p>	<p><u>0.8% of the Contract Price</u></p>	<p><u>Five (5) months from the issuance of the Notice to Proceed</u></p>	<p><u>0.01% of the Accepted Contract Amount</u></p>
<p>2. 3. [●]The Bidder to include 2 additional penalty milestones pending construction (applied proportionally to the period after mobilization and prior to mechanical completion). In case of fulfillment of the issuance of the Preliminary Taking Over Certificate milestone, such penalties will be returned by the Employer.] <u>Mobilisation completed</u></p> <ul style="list-style-type: none"> • <u>Readiness to start construction and welding activities by the Contractor in accordance with the Project Execution Plan and the time schedule in accordance with Section 2.3 of the General Technical Requirements taking into account the Times for Completion</u> 	<p>N/A <u>2.5% of the Contract Price</u></p>	<p>[●] <u>One (1) month from the issuance of the Notice to Proceed</u></p>	<p>[●] <u>0.05% of the Accepted Contract Amount each day of delay*</u></p>
<p><u>3. 4-Mechanical Completion</u></p> <ul style="list-style-type: none"> • Issuance of the Mechanical Completion Certificate under Clause 5.1(a) below 	<p>2.5% of the Contract Price</p>	<p>Ten (10) months from the issuance of the Notice to Proceed</p>	<p>0.05% of the Accepted Contract Amount each day of delay*</p>

<p><u>4.</u> 5. Ready for Commissioning</p> <ul style="list-style-type: none"> • All necessary certificates for the gas-in, esp.: <ul style="list-style-type: none"> ○ Tightness test, ○ Certificates from authorities (e.g. Fire brigade, TICR) • Issuance of the Ready for Commissioning Certificate under Clause 5.1(b) below • Preliminary application for Trial Operation Permit submitted by the Contractor to the authorities 	<p>2.55% of the Contract Price</p>	<p>Eleven (11) months from the issuance of the Notice to Proceed</p>	<p>0.05% of the Accepted Contract Amount each day of delay*</p>
<p><u>5.</u> 6. Issuance of the Preliminary Taking-Over Certificate (including the issuance of the Trial Operation Permit in legal force)</p>	<p>10% of the Contract Price</p>	<p>Fourteen (14) months from the issuance of the Notice to Proceed</p>	<p>0.10.13% of the Accepted Contract Amount each day of delay</p>
<p><u>6.</u> 7. Issuance of the Taking-Over Certificate under Sub-Clause 10.1 [<i>Preliminary Taking Over of the Works and Final Taking Over of the Works</i>] of the Conditions</p> <ul style="list-style-type: none"> • All requirements under Clause 5.1(d) below fulfilled • Final Operation Permit in legal force • No A items on Punch List unresolved 	<p>52.5% of the Contract Price</p>	<p>N/A</p>	<p>N/A</p>

* The Employer shall return to the Contractor any delay penalty charged for any of the milestones No. 2 through No. ~~5~~4 in case the milestone No. ~~6~~5 “Issuance of the Preliminary Taking-Over Certificate” is completed in time. Any delay penalty charged for the milestone No. 5 “Issuance of the Preliminary Taking-Over Certificate” shall be reduced by the cumulative amount of the penalties charged for the milestones No. 3 and No. 4; for the avoidance of doubt, the Owner shall not return any amount of penalty to the Contractor if the cumulative amount of the penalties charged for the milestones No. 3 and No. 4 is higher than the penalty charged for the milestone No. 5 “Issuance of the Preliminary Taking-Over Certificate”.

** The Times for Completion specified in this column shall apply only in case the partial Notice to Proceed concerning the Early Works is issued by the Employer at least sixty (60) days prior to the Notice to Proceed concerning the Works (“Minimum Period”). If the partial Notice to Proceed concerning the Early Works is issued less than sixty (60) days prior to the Notice to Proceed concerning the Works, the Times for Completion specified in this column shall be extended by a number of days equal to the difference between sixty (60) days and the number of days remaining from the Minimum Period once the partial Notice to Proceed concerning the Early Works is issued.

(b) 12-Month Scenario

Milestones	Contract Price Payment upon Payment Milestone	Time for Completion [Periods]**	Delay Penalty Rates
<p>1. (a) Delivery of Detail Design Documentation <u>covering first three (3) months of the construction activities</u></p> <ul style="list-style-type: none"> Detail Design completed and approved by the Employer incl. method statements, the Project Execution Plan, the PHSE Plan, the Inspection and Test Plan and procurement list of material 	<p>2.50 0.9% of the Contract Price</p>	<p>One <u>Fourteen</u> (+14) month <u>days</u> from the issuance of the Notice to Proceed</p>	<p>0.025 <u>0.015</u>% of the Accepted Contract Amount for first 13 days of delay <u>0.035%</u> of the Accepted Contract Amount from the 14th day</p>
<p>2. Mobilisation completed</p>	<p>2.5% of the Contract Price</p>	<p>One (1) month from the issuance of the Notice to Proceed</p>	<p>0.05% of the Accepted Contract Amount each day of delay*</p>

<p>3. [•] The Bidder to include 2 additional penalty milestones pending construction (applied proportionally to the period after mobilization and prior to mechanical completion). In case of fulfillment of the issuance of the Preliminary Taking Over Certificate milestone, such penalties will be returned by the Employer.</p>	N/A	[•]	[•]% of the Accepted Contract Amount each day of delay*
<p>4. Mechanical Completion</p> <ul style="list-style-type: none"> • Issuance of the Mechanical Completion Certificate under Clause 5.1(a) below 	2.5% of the Contract Price	N/A	N/A
<p>5. <u>1. (b) Delivery of Detail Design Documentation covering months 4 through 6 of the construction activities Ready for Commissioning</u></p> <ul style="list-style-type: none"> • All necessary certificates for the gas-in, esp.: <ul style="list-style-type: none"> ○ Tightness test, ○ Certificates from authorities (e.g. Fire brigade, TIČR) • Issuance of the Ready for Commissioning Certificate under Clause 5.1(b) below • Preliminary application for Trial Operation Permit submitted by the Contractor to the authorities 	2.50.8% of the Contract Price	NineTwo (92) months from the issuance of the Notice to Proceed	0.050.01% of the Accepted Contract Amount each day of delay*
<p>6. Issuance of the Preliminary Taking Over Certificate (including the issuance of the Trial Operation Permit in legal force) <u>1. (c) Delivery of Detail Design Documentation covering months 7 and all following months of the construction activities</u></p>	100.8% of the Contract Price	TwelveFive (125) months from the issuance of the Notice to Proceed	0.10.01% of the Accepted Contract Amount each day of delay

<p>7. Issuance of the Taking Over Certificate under Sub Clause 10.1 [Preliminary Taking Over of the Works and Final Taking Over of the Works] of the Conditions</p> <ul style="list-style-type: none"> • All requirements under Clause 5.1(d) below fulfilled • Final Operation Permit in legal force • No A items on Punch List unresolved 	5% of the Contract Price	N/A	N/A
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* The Employer shall return to the Contractor any delay penalty charged for any of the milestones No. 2 through No. 5 in case the milestone No. 6 "Issuance of the Preliminary Taking Over Certificate" is completed in time.

** The Times for Completion specified in this column shall apply only in case the partial Notice to Proceed concerning the Early Works is issued by the Employer at least sixty (60) days prior to the Notice to Proceed concerning the Works ("Minimum Period"). If the partial Notice to Proceed concerning the Early Works is issued less than sixty (60) days prior to the Notice to Proceed concerning the Works, the Times for Completion specified in this column shall be extended by a number of days equal to the difference between sixty (60) days and the number of days remaining from the Minimum Period once the partial Notice to Proceed concerning the Early Works is issued.

(c) ~~11~~ Month Scenario

Milestones	Contract Price Payment upon Payment Milestone	Time for Completion [Periods]**	Delay Penalty Rates
<p>2. Mobilisation completed</p> <ul style="list-style-type: none"> • 1. Readiness to start construction and welding activities by the Contractor in accordance with the Project Execution Plan and the time schedule in accordance with Section 2.3 of the General Technical Requirements, taking into account the Times for Completion Delivery of Detail Design Documentation • Detail Design completed and approved by the Employer incl. method statements, the Project Execution Plan, the PHSE Plan, the Inspection and Test Plan and procurement list of material 	2.5% of the Contract Price	One (1) month from the issuance of the Notice to Proceed	<p>0.0250.05% of the Accepted Contract Amount for first 13 days each day of delay*</p> <p>0.035% of the Accepted Contract Amount from the 14th day</p>
2. Mobilisation completed	2.5% of the Contract Price	One (1) month from the issuance of the Notice to Proceed	0.05% of the Accepted Contract Amount each day of delay*

<p>3. [●]The Bidder to include 2 additional penalty milestones pending construction (applied proportionally to the period after mobilization and prior to mechanical completion). In case of fulfillment of the issuance of the Preliminary Taking Over Certificate milestone, such penalties will be returned by the Employer.</p>	N/A	[●]	[●]% of the Accepted Contract Amount each day of delay*
<p><u>3.</u> 4-Mechanical Completion</p> <ul style="list-style-type: none"> • Issuance of the Mechanical Completion Certificate under Clause 5.1(a) below 	2.5% of the Contract Price	N/A	N/A
<p><u>4.</u> 5-Ready for Commissioning</p> <ul style="list-style-type: none"> • All necessary certificates for the gas-in, esp.: <ul style="list-style-type: none"> ○ Tightness test, ○ Certificates from authorities (e.g. Fire brigade, TICR) • Issuance of the Ready for Commissioning Certificate under Clause 5.1(b) below • Preliminary application for Trial Operation Permit submitted by the Contractor to the authorities 	2.5 5% of the Contract Price	Eight Nine (89) months from the issuance of the Notice to Proceed	0.05% of the Accepted Contract Amount each day of delay*
<p><u>5.</u> 6-Issuance of the Preliminary Taking-Over Certificate (including the issuance of the Trial Operation Permit in legal force)</p>	10% of the Contract Price	Eleven Twelve (11 12) months from the issuance of the Notice to Proceed	0.10 .13% of the Accepted Contract Amount each day of delay
<p><u>6.</u> 7-Issuance of the Taking-Over Certificate under Sub-Clause 10.1 [Preliminary Taking Over of the Works and Final Taking Over of the Works] of the Conditions</p> <ul style="list-style-type: none"> • All requirements under Clause 5.1(d) below fulfilled • Final Operation Permit in legal force • No A items on Punch List unresolved 	5 2.5% of the Contract Price	N/A	N/A

* The Employer shall return to the Contractor any delay penalty charged for any of the milestones No. 2 through No. ~~5~~4 in case the milestone No. ~~6~~5 “Issuance of the Preliminary Taking-Over Certificate” is completed in time. Any delay penalty charged for the milestone No. 5 “Issuance of the Preliminary Taking-Over Certificate” shall be reduced by the amount of the penalty charged for the milestone No. 4; for the avoidance of doubt, the Owner shall not return any amount of penalty to the Contractor if the cumulative amount of the penalty charged for the milestone No. 4 is higher than the penalty charged for the milestone No. 5 “Issuance of the Preliminary Taking-Over Certificate”.

** The Times for Completion specified in this column shall apply only in case the partial Notice to Proceed concerning the Early Works is issued by the Employer at least sixty (60) days prior to the Notice to Proceed concerning the Works (“Minimum Period”). If the partial Notice to Proceed concerning the Early Works is issued less than sixty (60) days prior to the Notice to Proceed concerning the Works, the Times for Completion specified in this column shall be extended by a number of days equal to the difference between sixty (60) days and the number of days remaining from the Minimum Period once the partial Notice to Proceed concerning the Early Works is issued.

3.2 Notices to Proceed and Time for Completion Scenarios

- (a) The Contractor shall commence performing the Early Works ~~(i) once the Employer issues a partial Notice to Proceed, or, (ii) if such partial Notice to Proceed is not issued, once.~~ The Times for Completion set forth in Clause 3.1 are conditional upon the Employer ~~issues the Notice to Proceed concerning the Works. It is assumed that~~issuing the partial Notice to Proceed ~~will be issued by the Employer at the latest~~ sixty (60) days prior to the issuance of the Notice to Proceed concerning the Works.
- (b) It is assumed that the Notice to Proceed concerning the Works will be given to the Contractor on or about 1 November 2019¹ (the “**Expected NTP Date**”). ~~Such Notice to Proceed shall not be issued by the Employer earlier than 1 August 2019².~~
- (c) If the Notice to Proceed is not issued by the Employer on or about the Expected NTP Date and the Employer notifies the Contractor of its requirement to shift the commencement of the Works at least one month prior to the Expected NTP Date, then the Contractor shall not be entitled to charge any costs such as stand-by costs for a period of ~~30~~45 days from the Expected NTP Date; after the lapse of such period the Contractor shall be entitled to charge ~~only~~solely the stand-by costs specified in the SPRQ under item 6.1 “Stand-by costs before the issuance of the Notice to Proceed” until the actual issuance of the Notice to Proceed. If the Employer notifies the Contractor of its requirement to shift the commencement of the Works less than one month prior to the Expected NTP Date, the Contractor shall be entitled to charge ~~only~~solely the stand-by costs specified in the SPRQ under item 6.1 “Stand-by costs before the issuance of the Notice to Proceed” already from the day which immediately follows the Expected NTP Date until the actual issuance of the Notice to Proceed.
- (d) The Employer shall have the right to request the Contractor to comply with the 14-Month Scenario; ~~or the 12-Month Scenario or 11-Month Scenario~~ any time until the issuance of the Notice to Proceed. However, in case the Employer issues the Notice to Proceed on or before the Expected NTP Date, the Employer shall only be entitled to request the Contractor to comply with the 14-Month Scenario.

Notwithstanding any other provision of this Contract, the Expected NTP Date shall be the first moment from which the Times for Completion shall be counted in any Scenario.

- (e) If the Notice to Proceed is not issued within 9 months from the ~~Base Date~~submission of the Contractor’s Proposal in the Tender, the Contractor shall be entitled to adjustment of Contract Price in accordance with Clause 13.8 of the Conditions.

¹~~Please note that this date may be changed by the Employer during the Tender.~~

²~~Please note that this date may be changed by the Employer during the Tender.~~

- (f) If no Notice to Proceed is issued until 31 December 2020, the Contractor shall be entitled to terminate the Contract and the payment to the Contractor shall be made in accordance with Sub-Clause 19.6 of the Conditions.
- (g) The above is without prejudice to the Employer's right to issue any other Notice to Proceed, specifying which part of the Works shall be commenced by the Contractor, however for the rest of the Works the maximum periods stated under letters (c) through (e) and the respective claims of the Contractor remain unaffected.

3.3 Delay Penalties

The Contractor shall, subject to Sub-Clause 8.7 of the Conditions, pay delay penalties to the Employer for:

- (a) each commenced day of delay with the completion against the Times for Completion, calculated as the relevant daily penalty rate stipulated in the table set in Clause 3.1 and the number of days of delay against the Times for Completion;
- (b) each commenced 12h of delay with the commencement of the removal of defect under Sub-Clause 11.4.i of the Conditions in case the defect prevents the safe operation of the Works calculated at the rate of EUR ~~30,000~~20,000 and the number of commenced 12h of delay;
- (c) each commenced 24h of delay with the commencement of the removal of defect under Sub-Clause 11.4.ii of the Conditions in case the defect does not prevent the safe operation of the Works but the works cannot be operated in full operational mode calculated at the rate of EUR ~~10,000~~6,000 and the number of commenced 24h of delay;
- (d) each commenced 48h of delay with the commencement of the removal of defect under Sub-Clause 11.4.iii of the Conditions in case the defect other than defects under (b) and (c) does not have an impact on the safe operation of the Works calculated at the rate of EUR ~~5,000~~3,000 and the number of commenced 48h of delay;
- (e) each commenced 24h of delay with the removal of defect preventing the safe operation of the Works calculated at the rate of EUR ~~15,000~~10,000 and the number of commenced 24h of delay when the Contractor failed to continue to remedy the defect as an experienced contractor exercising Recognised Good Practice would after the receipt of first notification of defect;
- (f) each commenced 24h of delay with the removal of defect that does not have impact on the safe operation of the Works but the works cannot be operated in full operational mode calculated at the rate of EUR ~~5,000~~2,000 and the number of commenced 24h of delay when the Contractor failed to continue to remedy the defect as an experienced contractor exercising Recognised Good Practice would after the receipt of first notification of defect; and
- (g) each commenced day of delay with the removal of defects other than defects under letters (e) and (f) that does not have impact on the safe operation of the Works calculated at the rate of EUR ~~2,500~~1,000 and the number of days of delay when the Contractor failed to continue to remedy the defect as an experienced contractor exercising Recognised Good Practice would after the receipt of first notification of defect.

3.4 Interruptions during Works

In case the Employer requests the 14-Month Scenario, it shall be entitled to request interruption of the Works whereby the Contractor shall relocate its main construction spread

along the Pipeline and later complete the missing part of the Works. The Contract Price shall include and the Time for Completion shall not be affected by:

- (i) One interruption with relocation of the Contractor's Equipment not requiring additional transport (such as trailers) not exceeding 5 km ~~and~~, on the condition that the Contractor will be allowed to resume the construction of the interrupted part of the Pipeline not later than six (6) weeks prior to the expiry of the Time for Completion specified for the milestone No. 3 "Mechanical Completion", and
- (ii) One interruption with relocation of the Contractor's Equipment requiring additional transport (such as trailers) not exceeding 20 km of the Pipeline length shall be included in the Contract Price, on the condition that the Contractor will be allowed to resume the construction of the interrupted part of the Pipeline not later than six (6) weeks prior to the expiry of the Time for Completion specified for the milestone No. 3 "Mechanical Completion"; in case the length of such relocation is more than 20 km, (x) the Employer shall pay to the Contractor the transportation costs specified in the SPRQ under item 6.3.1 for each km of relocation exceeding 20 km and (y) with respect to time, such interruption above 20 km shall be considered a Variation (including the right to have the Time for Completion extended).

In case more interruptions are requested in the 14-Month Scenario or the Employer requests other scenario than the 14-Month Scenario and:

- (b) ~~(a)~~ such interruptions require additional transport (such as trailers), the Employer shall pay to the Contractor the interruptions the stand-by costs specified in the SPRQ under item 6.2 "Stand-by costs after the issuance of the Notice to Proceed", the costs related to the de-mobilization and re-mobilization specified in the SPRQ under item 6.3 "Interruption mobilization and demobilization costs" and the transportation costs specified in the SPRQ under item 6.3.1 for each km of relocation (to the new location and back to the missing part of the Pipeline). The Contractor shall also be entitled, subject to Sub-Clause 20.1 [*Contractor's Claims*] of the Conditions, to an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [*Extension of Time for Completion*] of the Conditions; or
- (c) ~~(b)~~ such interruptions do not require additional transport (such as trailers) not exceeding 5 km, the Employer shall pay to the Contractor the interruptions the stand-by costs specified in the SPRQ under item 6.2 "Stand-by costs after the issuance of the Notice to Proceed". The Contractor shall also be entitled, subject to Sub-Clause 20.1 [*Contractor's Claims*] of the Conditions, to an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [*Extension of Time for Completion*] of the Conditions.

For the avoidance of doubts, the special interruptions required by the design of the Works (such as the Crossings) shall not be considered as interruptions under this Clause.

4. Contract Price and Payment Terms

4.1 Contract Price

The Contract Price for the entire Works shall be [●] in EUR (excluding VAT) in case the 14-Month Scenario is requested by the Employer.

The Contract Price for the entire Works shall be [●] in EUR (excluding VAT) in case the 12-Month Scenario is requested by the Employer (the “**Accepted Contract Amount**”).

~~The Contract Price for the entire Works shall be [●] in EUR (excluding VAT) in case the 11-Month Scenario is requested by the Employer.~~

The Contract Price is a fixed lump-sum consisting of various items specified in the SPRQ. The unit quantities included in the SPRQ shall be considered only as guidance for the Contractor when submitting the offer in the Tender; the Contractor was responsible during the Tender to verify such unit quantities and cannot request a Variation if any such quantities later differ, unless (i) the difference is caused by any change to the scope of the Works initiated by the Employer or (ii) the actual soil conditions are different from those provided in the Employer’s Requirements and the SPRQ, in which case the Contractor shall have the right to request a Variation and the respective item of the SPRQ shall be modified to account for a different soil type- under the following rules:

- (i) The total quantity of soil to be excavated as specified in item 2.1.1.1 and 2.1.1.6 of the SPRQ shall not be modified;
- (ii) The ratio of quantity of various soil classes determined in accordance with the document entitled “C4G-HPPL-ILF-GENER-GEN-TZP-032-001 - Geological Report” contained in the Surveys section of the Employer’s Requirements and alignment sheets contained in the Drawings shall be modified to correspond to the ratio of quantity of soil classes actually excavated during the construction.

The Contract Price is not subject to any regular pre-defined escalation other than pursuant to Sub-Clause 13.8 of the Conditions. The Contractor is entitled to additional payments wherever explicitly stated in the Contract, especially:

- (b) ~~(a)~~ in cases set forth in Sub-Clause 8.4 of the Conditions ~~provided that only Costs are to be reimbursed;~~
- (c) ~~(b)~~ pursuant to Clause 13 of the Conditions provided that compensation due to the Contractor is to be determined in accordance with the rules set out in Clause 13 of the Conditions;
- (d) ~~(e)~~ pursuant to Sub-Clause 17.6 of the Conditions;

in each case subject to the rules set out in Sub-Clause 20.1 of the Conditions.

4.2 Payment Schedule

The payment method for various items of the Works is specified in the column marked “Payment” in the SPRQ. The items marked as “progress” shall be paid by the Employer in accordance with the percentage of their progress completed as evidenced in the Statement (pursuant to Sub-Clause 14.3 of the Conditions) and certified in the Interim Payment Certificate (pursuant to Sub-Clause 14.6 of the Conditions). If the item is marked as “milestone”, it shall be paid by the Employer once it is completed as evidenced in the Statement (pursuant to Sub-Clause 14.3 of the Conditions) and certified in the Interim Payment Certificate (pursuant to Sub-Clause 14.6 of the Conditions). The payment with respect to both such categories shall not exceed 75 % of the Contract Price concerning each item stated in the SPRQ. The remaining part of the Contract Price shall be paid at the Payment Milestones in the amounts stated for the Scenario selected by the Employer in Clause 3.1 above.

In case the Employer issues a partial Notice to Proceed for the Early Works, the items 0.1 (Project management), 0.2 (Permits, fees, insurances, etc.), 0.4 (Procurement), 1.1 (Surveys

and As-Built Documentation), 1.2 (Passports, photo/video documentation) and 1.4 (Site installations, temporary offices and stockyards) of the SPRQ shall be paid by the Employer during the performance of the Early Works in accordance with the percentage of their progress completed as evidenced in the Statement (pursuant to Sub-Clause 14.3 of the Conditions) and certified in the Interim Payment Certificate (pursuant to Sub-Clause 14.6 of the Conditions).

4.3 Advance Payment and Repayment of Advance Payment

In accordance with Clause 3.1 above and Sub-Clause 14.2 of the Conditions, the Employer shall make the advance payment in the amount of 10 % of the Contract Price to the Contractor. In accordance with Sub-Clause 14.2 of the Conditions, the advance payment shall be repaid upon the Payment Milestone “*Issuance of the Preliminary Taking-Over Certificate*”.

4.4 Delay Interest

In accordance with Sub-Clause 14.8 of the Conditions, the rate applicable in case of delayed payments shall be 0.05% per day of delay.

4.5 Currency

In accordance with Sub-Clause 14.15 of the Conditions, the currency of payments, including payment of damages and penalties shall be EUR.

4.6 Acceleration Bonus

In accordance with Sub-Clause 13.9 of the Conditions, the acceleration bonus shall be EUR 100,000 for every 7 days of earlier achievement of Payment Milestone “*Issuance of the Preliminary Taking-Over Certificate*”.

4.7 Reasonable Profit

Where the Contract refers to payment of Profit to the Contractor or includes the expression “Cost plus reasonable Profit”, such Profit shall be ~~10~~twelve (12) %. The Profit shall include the Contractor’s profit and overheads.

5. Testing and Taking Over

5.1 Tests on Completion

To achieve the taking over of the Works, the following interim milestones of Tests on Completion have to be successfully completed in the sequence outlined in 2.17.3 of the General Technical Requirements by the Contractor and the respective dossier evidencing the completion of such interim milestones has to be presented by the Contractor to the Employer.

Unless specifically waived in writing by the Employer, the Contractor cannot commence the activities of subsequent milestone, if the preceding milestone has not been completed yet.

The procedure for the Tests on Completion, as defined in Clause 9 of the Conditions and the procedure for the issuance of the Preliminary Taking-Over Certificate and the Taking-Over Certificate, as defined in Sub-Clause 10.1 of the Conditions, shall be followed analogously when conducting interim tests and applying for and issuing the interim certificates.

For the avoidance of doubt, in case during the Project only one Trial Operation Permit and/or only one Final Operation Permit will be issued for both lots, any delay caused by the Employer, Other Employer’s Contractors or by the relevant authorities with the completion of the milestones No. 5 “Issuance of the Preliminary Taking-Over Certificate” and/or 6

“Issuance of the Taking-Over Certificate” (as applicable) the Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor’s Claims] of the Conditions to:

- (i) an extension of time for any such delay under Sub-Clause 8.4 (e) [Extension of Time for Completion] or Sub-Clause 8.5 [Delay Caused by Authorities] of the Conditions, and
- (ii) payment of any related Cost plus reasonable Profit in case of a delay under Sub-Clause 8.4 (e) [Extension of Time for Completion] or payment of any related Cost in case of a delay under Sub-Clause 8.5 [Delay Caused by Authorities], which shall be included in the Contract Price.

(a) **Mechanical Completion**

The Contractor shall complete all construction and installation works, including the activities listed in 2.18.2 of the General Technical Requirements. Once completed, the Contractor shall present to the Employer the mechanical completion dossier as defined in 2.18.3 of the General Technical Requirements. The Contractor has to submit the preliminary application for the Trial Operation Permit when applying for the issuance of the Mechanical Completion Certificate.

(b) **Pre-commissioning**

The Contractor shall complete all pre-commissioning activities listed in Section 2.19.1 of the General Technical Requirements. Once completed, the Contractor shall present to the Employer the pre-commissioning dossier as defined in Section 2.19.2 of the General Technical Requirements. The Contractor has to fulfil all requirements set out in Section 2.19.3 of the General Technical Requirements when applying for the issuance of the Ready for Commissioning Certificate.

(c) **Commissioning**

The Contractor shall complete all preparatory activities and checks prior to the introduction of natural gas into the Works, shall assist the Employer with the subsequent the introduction of natural gas into the Works and perform functional tests, as further described in Section 2.20.1 of the General Technical Requirements. Once completed, the Contractor shall present to the Employer the commissioning dossier as defined in Section 2.20.3 of the General Technical Requirements.

The Employer shall be responsible for the availability of natural gas, hydraulics and personnel needed for commissioning and operation of the Pipeline; all other necessary inputs for the commissioning of the Works shall be procured by the Contractor.

For the avoidance of doubts, after the introduction of natural gas into the Works (gas-in) the Employer has strict liability for the operation of the Pipeline towards third persons under Section 2925 of the Czech Civil Code.The Contractor has to fulfil all requirements set out in Section 2.20.4 of the General Technical Requirements when applying for the issuance of the Preliminary ~~Taking-Over~~Taking-Over Certificate, including the procurement of issuance of the Trial Operation Permit (in legal force) on behalf of the Employer.

(d) **Trial Operation**

The Contractor shall, under the supervision of the Employer, complete all activities listed in Section 2.21.1 and 2.21.2 of the General Technical Requirements. The Contractor shall, under the supervision of the Employer, further conduct all performance tests in accordance with the Inspection and Test Plan to demonstrate the compliance of the Works the with performance parameters under Section 2.21.3. Once completed, the Contractor shall present to the

Employer the trial operation dossier as defined in Section 2.21.4 of the General Technical Requirements.

The Contractor has to fulfil all requirements set out in Section 2.23 of the General Technical Requirements when applying for the issuance of the ~~Taking-Over~~Taking-Over Certificate under Sub-Clause 10.1 of the Conditions, including the procurement of issuance of the Final Operation Permit (in legal force) on behalf of the Employer.

5.2 Passing of the Risk of Damage

The Contractor shall bear the risk of damage of the Works until the date the Preliminary Taking-Over Certificate is issued or deemed issued pursuant to Sub-Clauses 10.1 and/or 10.2 of the Conditions of the Contract.

6. Defects Notification Period

6.1 Defects Notification Period

In accordance with Sub-Clause 1.1.3.7 of the Conditions, the Defects Notification Period shall be: 60 months for the Works from the date of the Preliminary Taking-Over Certificate, but not later than 66 months from the commencement of commercial operation of the Works. The Defects Notification Period for the items on the Punch List attached to the Taking-Over Certificate shall commence once any such item is closed, subject to extensions under Sub-Clause 11.3 of the Conditions. Rules for notification and remedy of defects are stated in Clause 11 of the Conditions.

6.2 Design Life

The Works shall be fit for the purposes for which they are intended (as specified in this Contract and with no Contractor's responsibility for design performance and output (flow) of the Pipeline and design life of the Employer's Plant and Materials), using a design life of the duration specified in Section 3.3 of the General Technical Requirements (counted from the issuance of the Preliminary Taking-Over Certificate), subject to fair wear and tear and operation and maintenance (including replacement of wearable parts) in accordance with the operations and maintenance manuals provided by the Contractor. For the avoidance of doubt, the Employer shall be entitled to raise claims pursuant to Clause 11 of the Conditions based on the failure of Contractor to comply with the design life obligations under this Clause against the Contractor only until the expiration of the latest of the Defects Notification Period.

7. Contractor's Representations

7.1 Contractor's Representations

The Contractor represents and warrants to the Employer that each of the statements set out in this clause is, as of the day of execution of the Contract, true, accurate and not misleading. The Contractor represents that:

- (a) it has available the resources, experience, qualifications and abilities required to fulfil the obligations under the Contract,
- (b) ~~it reviewed the specification (with respect to quality and quantity) of the Employer's Plant and Materials forming part of the Employer's Requirements and considers them to be correct and complete for the purpose of the Works, and~~ agrees to accept the Employer's Plant and Materials upon due examination after delivery to it by the Employer for the purposes of the Works,

- (c) to the best of its knowledge, the Contractor or its employees have not materially breached the laws of the Country or of the country of their seat or permanent residence that are directly related to the Contractor's performance under the Contract,
- (d) to the best of its knowledge, the Contractor has not breached any agreement binding on it, the failure to follow, perform or breach of which can result in a serious adverse effect for the execution of the Contract and performance of the obligations under it shall not bring about or result in such a breach, failure to follow or perform,
- (e) no court hearing, court action, arbitration, court, administrative or other proceedings are held, anticipated or threatened (to the best of Contractor's knowledge) that would prevent the Contractor from entering into the Contract or that would in any serious manner affect the validity or enforceability of the Contract, or the ability of the Contractor to fulfil its obligations under the Contract. No pending judgment, resolution or other decision of any court, arbitral tribunal, public administration authority or any other authority has been issued against the Contractor that could seriously affect its ability to perform its obligations under the Contract, and
- (f) the Contractor has provided the Employer with true and accurate information about its experience and qualifications any information provided by the Contractor to the Employer prior to the date of the Contract is not misleading, false or intentionally incomplete.

Any neglect, delay or failure on Contractor's part in obtaining such reliable information regarding the aforesaid or any other matters shall not relieve the Contractor from its obligations under the Contract.

8. Damages and Penalties

8.1 Limits of Penalties

In accordance with Sub-Clause 17.6 of the Conditions:

- (a) the limit of delay contractual penalties under Clause 3.1 and 3.3 (a) of the Contract Agreement and Sub-Clause 8.7 of the Conditions shall be ~~20~~fifteen (15) % of the Accepted Contract Amount;
- (b) the limit of delay contractual penalties under Clause 3.3 (b) through (g) of the Contract Agreement shall be five (5) % of the Accepted Contract Amount;
- (c) ~~(b)~~ the aggregate limit of contractual penalties payable to the Employer (except for contractual penalties for breaches of confidentiality under Sub-Clause 1.12 of the Conditions) under Sub-Clause 17.6 of the Conditions shall be ~~25~~fifteen (15) % of the Accepted Contract Amount.

For the avoidance of doubt, where a contractual penalty applies, the right to claim damages exceeding the contractual penalties shall be excluded.

8.2 General Liability of the Contractor

In accordance with Sub-Clause 17.6 of the Conditions, the total limit of liability of the Contractor for damage is one hundred (100) % of the Accepted Contract Amount. Any obligation of the Contractor to pay contractual penalties under this Contract shall be counted towards such total limit of liability.

8.3 Insurance

The Parties shall effect the insurance in accordance with Clause 18 of the Conditions and the Annex No. 6.

9. Bank Guarantees

9.1 Advance Payment Guarantee

The Contractor shall provide to the Employer an Advance Payment Guarantee in the amount of the advance payment in accordance with Sub-Clause 14.2 of the Conditions.

9.2 Performance Security

The Contractor shall provide to the Employer a Performance Security initially for the amount of 10 % of the Accepted Contract Amount and in accordance with Sub-Clause 4.2 of the Conditions.

10. Termination of the Contract

10.1 Termination by Employer

The Employer shall be entitled to terminate the Contract in accordance with Sub-Clauses 15 and 19.6 of the Conditions [and in accordance with other parts of the Contract](#).

10.2 Termination by Contractor

The Contractor shall be entitled to terminate the Contract in accordance with [Clause 3.2 of the Contract Agreement](#), Sub-Clause 16 [and 19.6](#) of the Conditions [and in accordance with other parts of the Contract](#).

11. Governing Law and Dispute Resolution

11.1 Governing Law

(a) The Contract shall be governed by the laws of the Czech Republic excluding the application of (i) conflict of law rules and (ii) United Nations Convention on Contracts for International Sale of Goods of April 11, 1980.

(b) The Parties expressly agree to exclude the following provisions of the [Czech](#) Civil Code: Section ~~557~~, Section 558(2), Section 1728(2), Section ~~1729~~, Section 1730(1), Section 1740(3), ~~Section 1766~~, ~~Sections 1798 to 1800~~, Sections 1977 to 1979, Section 1980, Sections 2002 to 2004, Section 2111, Section 2112, Section 2152, Section 2153 and Section 2950.

~~(c) The Contractor represents that it assumes the risk of a change in circumstances within the meaning of Section 1765(2) of the Civil Code.~~

11.2 Language

English language shall be used for communication concerning the Contract.

11.3 Communication

In accordance with Sub-Clause 1.3 of the Conditions, the systems to be used for communications are e-mail, or registered mail with proof of delivery, including such delivery

by a courier. In case a form of a notice or certificate is contained in Annex No. 5 to the Contract, a Party shall be obliged to use such form when preparing the respective document.

11.4 Notices to Employer

The address to be used for communication with the Employer shall be:

(a) the address:

Na Hřebenech II 1718/8, Prague 4 - Nusle, Postal Code: 140 21

(b) the persons authorized to act on behalf of the Employers:

(i) Technical matters: [●];

(ii) Contract matters: [●]; and

(iii) Financial matters: [●].

11.5 Notices to Contractor

The address to be used for communication with the Contractor shall be:

(a) the address:

[●]

(b) the persons authorized to act on behalf of the Contractor:

(i) Technical matters: [●];

(ii) Contract matters: [●]; and

(iii) Financial matters: [●].

12. Final Provisions

12.1 Entire Agreement

The Parties confirm that the Contract represents the full agreement of the Parties and supersedes all previous communication of the Parties.

12.2 Written Form

This Contract may be changed or amended only in written form, and shall be executed by the representatives of Parties, otherwise such change or amendment is not valid.

12.3 Severability

Any provision in the Contract which is or becomes illegal, void or unenforceable will be ineffective to the extent only of such illegality, voidness or unenforceability and such illegality, voidness or unenforceability will not invalidate any other provision of the Contract. The Parties agree to replace such provision with a provision which reflect the underlying commercial conditions be to the largest extent permitted by the Laws of the Country.

12.4 Effectiveness

The Contract shall come into full force and effect upon its signature by the Parties (the “**Base Date**”).

In Witness whereof the parties hereto have caused the Contract to be executed the day and year first before written in accordance with their respective laws.

[Intentionally left blank, signatures on the next page]

For the Employer

For the Contractor

Name: [●]

Position: Executive Director

Name: [●]

Position: [●]

Name: [●]

Position: Executive Director

Name: [●]

Position: [●]