

# EFET

## European Federation of Energy Traders

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### POLISH VP APPENDIX

to the

EFET General Agreement

Concerning the Delivery and Acceptance of Natural Gas

Version 2.0/January 6, 2003 and Version 2.0(a)/May 11, 2007

(the "Polish VP Appendix")

**NOTICE & WAIVER: THIS POLISH VP APPENDIX WAS PREPARED BY EFET'S MEMBERS EXERCISING ALL REASONABLE CARE BASED ON THE TRANSMISSION NETWORK CODE VERSION 23. HOWEVER EFET, THE EFET MEMBERS, REPRESENTATIVES AND COUNSEL INVOLVED IN ITS PREPARATION AND APPROVAL SHALL NOT BE LIABLE OR OTHERWISE RESPONSIBLE FOR ITS USE AND ANY DAMAGES OR LOSSES RESULTING OUT OF ITS USE IN ANY PARTICULAR CASE AND IN WHATEVER JURISDICTION. IT IS THEREFORE THE RESPONSIBILITY OF EACH PARTY WISHING TO USE THIS POLISH VP APPENDIX AND THE EFET GENERAL AGREEMENT TO ENSURE THEIR TERMS AND CONDITIONS ARE LEGALLY BINDING, VALID AND ENFORCEABLE AND BEST SERVE TO PROTECT THE USER'S LEGAL INTERESTS. USERS OF THIS POLISH VP APPENDIX ARE URGED TO CONSULT RELEVANT LEGAL OPINIONS MADE AVAILABLE THROUGH EFET AS WELL AS THEIR OWN COUNSEL.**

# EFET

## European Federation of Energy Traders

**POLISH VP APPENDIX**  
to the  
General Agreement  
Concerning the Delivery and Acceptance of Natural Gas  
Version .....

### **POLISH VP APPENDIX**

dated as of \_\_\_\_\_  
(the “Polish VP Appendix Effective Date”)

Between

\_\_\_\_\_

and

\_\_\_\_\_

**Check the following box and fill in date ONLY if you are using this Polish VP Appendix to modify and supplement a previously executed General Agreement between the Parties:**

- By executing this Polish VP Appendix in the signature block at the end hereof, the Parties hereby modify, supplement and amend the terms of that certain previously executed General Agreement entered into and dated as of \_\_\_\_\_, \_\_\_\_\_ to provide that the terms of this Polish VP Appendix shall be incorporated therein and shall be applicable to and thereafter govern all Polish VP Transactions (as hereinafter defined).
- All Polish VP Transactions (as hereinafter defined) concluded before execution of this Polish VP Appendix shall be governed by this Polish VP Appendix.

The provisions of the General Agreement are hereby amended and supplemented in accordance with the following:

## 1. Transmission Network Code and Incorporation of its Defined Terms

Capitalised terms used in this Polish VP Appendix and not otherwise defined herein or in the General Agreement shall have the meaning given to them in the Transmission Network Code (inclusive of its appendices and exhibits) published by OGP Gaz-System. For the purpose of this Polish VP Appendix the official English translation of such terms will be used; in case of any inconsistencies between the Polish definition and the official English translation, the Polish definition will govern. References to any particular article or provision of a Transmission Network Code shall be construed to be references to such article or provision as it is renumbered or re-referenced from time to time in subsequent revisions to the Transmission Network Code. For ease of reference, this Polish VP Appendix includes italicized, bracketed references to Polish language terminology employed in the Transmission Network Code at the time of issuance of this Polish VP Appendix (version 1.0). In the event that later versions or amendments to the Transmission Network Code employ alternative terminology, any no longer applicable referenced terms contained in this Polish VP Appendix should be struck out of this Polish VP Appendix and/or construed to be references to the relevant alternative terminology being employed in the then current version of the Transmission Network Code.

## 2. Applicability of this Polish VP Appendix

This Polish VP Appendix to the General Agreement amends and supplements, to the extent set forth herein, certain provisions of the General Agreement and, together with the General Agreement, shall apply to and govern all Individual Contracts entered into by the Parties for and concerning the delivery and acceptance of Natural Gas at the Polish VP Delivery Point, being the virtual title transfer point in the network of OGP Gaz-System (each such Individual Contract a “**Polish VP Transaction**” and, collectively, the “**Polish VP Transactions**”). Any and all future Individual Contracts between the Parties that constitute Polish VP Transactions shall be automatically subject to the General Agreement, as it is modified, amended and/or supplemented by its Annexes, Election Sheet and this Polish VP Appendix, without further action by the Parties, unless the terms of such Individual Contract expressly provide that it shall not be subject to this Polish VP Appendix. For all other types of Individual Contracts which are not Polish VP Transactions, the General Agreement shall remain unmodified by this Polish VP Appendix. In the event of any inconsistency between the General Agreement and this Polish VP Appendix, this Polish VP Appendix will prevail for purposes of all Polish VP Transactions. In the event of any inconsistency between the terms of a Polish VP Transaction (whether evidenced in a Confirmation or otherwise) and the provisions of either this Polish VP Appendix or the General Agreement (as amended by this Polish VP Appendix), the terms of the Polish VP Transaction will prevail for the purposes of that Polish VP Transaction.

## 3 Confirmations

**3.1** § 3.2 (*Confirmations*) of the General Agreement shall be amended by adding after the reference in the last line to “Annex 2a – d” and “and Annex 2 (A)-(D)”.

**3.2** Annexes 2 (A) – (D) which are attached to this Polish VP Appendix shall be added to the General Agreement for use in Polish VP Transactions.

## 4 Force Majeure

For the purposes of a Polish VP Transaction, § 7 (*Non-Performance Due to Force Majeure*) of the General Agreement shall apply but with the deletion of the words: “unless this constitutes a Transportation Failure” from §7.1 (*Definition of Force Majeure*).”

Notwithstanding the above, if OGP Gaz-System implements any procedures applicable under the Transmission Network Code and as a result a Party is unable to fulfill in whole or in part any of its contractual obligations under a Polish VP Transaction and such action by OGP Gaz-System has not been caused in whole or in part by the Claiming Party, then this shall constitute a Force Majeure event with respect to that Polish VP Transaction.

## 5 Remedies for Failure to Deliver or Accept the Contract Quantity

For the purposes of **Polish VP Transactions § 8.1 to 8.4 (Underdelivery, Under Acceptance, Overdelivery and Over Acceptance)** inclusive shall be deleted and replaced with the following:

*“1. Underdelivery. If in respect of a Day and a given Individual Contract the Contract Quantity exceeds the Delivered Quantity by reason of the Seller’s Default, the Seller shall pay to the Buyer as compensation for its resulting losses an amount equal to the product of:*

- a) an amount, if positive, by which the Reference Gas Price exceeds the Contract Price; and*
- b) the Default Quantity*

*Additionally, if the Buyer had to pay Additional Charges for Balancing Above Daily Imbalance Limits (OZB), the above amount will be augmented by that part of Additional Charges for Balancing Above Daily Imbalance Limits that applies to the Default Quantity.*

*2. Under Acceptance. If in respect of a Day and a given Individual Contract the Contract Quantity exceeds the Delivered Quantity by reason of the Buyer’s Default, the Buyer shall pay to the Seller as compensation for its resulting losses an amount equal to the product of:*

- c) an amount, if positive, by which the Contract Price exceeds Reference Gas Price and*
- d) the Default Quantity*

*Additionally, if the Seller had to pay, Additional Charges for Balancing Above Daily Imbalance Limits (OZB), the above amount will be augmented by that part of Additional Charges for Balancing Above Daily Imbalance Limits that applies to the Default Quantity.”*

## 6 Off-Spec Gas

For the purposes of Polish VP Transactions the provisions of **§ 8a (Off-Spec Gas)** shall not apply.

## 7 Tolerance

For the purposes of Polish VP Transactions the Tolerance shall be zero.

## 8 Definitions:

**“Additional Charges for Balancing Above Daily Imbalance Limits (OZB)”** has the meaning as defined in the Transmission Network Code (in version 23 of the Transmission Network Code clause 19.3.6.3 and 19.3.6.4)

**“Natural Gas”** means Gaseous Fuel (*Paliwo Gazowe*) as defined in the Transmission Network Code which according to the Transmission Network Code is the subject of trading on the Polish VP Delivery Point

**“OGP Gaz-System”** means the transportation system operated by Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A., with its seat in Warsaw, performing the transmission of gaseous fuels, assigned the role of the gas transmission system operator and responsible for operating the network according to the relevant regulations, or any successor entity from time to time.

**“Polish VP or Polish VP Delivery Point”** means Virtual Point (*Punkt Wirtualny*) as defined in the Transmission Network Code

**“Reference Gas Price”** (*Cena Referencyjna Gazu*) has a meaning as defined in the Transmission Network Code (in version 23 of the Transmission Network Code clause 19.3.6.1).

**“Transmission Network Code”** means the Polish language version of the Transmission Network Code (*Instrukcja Ruchu i Eksploatacji Sieci Przesyłowej*), which is a document written by OGP Gaz-System in accordance with the

relevant regulations and describing detailed conditions of use of the transmission grid and conditions and methods of operating and utilizing the network and planning its development, as amended from time to time.

**ADDITIONAL PROVISIONS / AMENDMENTS TO THE POLISH VP APPENDIX**

**To be executed by Parties that checked and completed the box on the first page hereof:**

IN WITNESS whereof this Polish VP Appendix has been duly executed by the duly authorized representative(s) of each Party on the respective dates set out below with effect from the Polish VP Appendix Effective Date.

\_\_\_\_\_  
[Name of Party]

\_\_\_\_\_  
[Name of Party]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# EFET

## European Federation of Energy Traders

### ANNEX 2 POLISH VP (A) to the General Agreement

#### CONFIRMATION OF INDIVIDUAL CONTRACT FOR POLISH VP TRANSACTIONS (FIXED PRICE)

**BETWEEN:**

(1) \_\_\_\_\_ ("Seller"); and

(2) \_\_\_\_\_ ("Buyer").

concluded on [ / / ], [ : ] hours

**Delivery Point :** Polish VP

**[X] INTRA SYSTEM**

**Relevant System :** OGP Gaz-System transmission grid

**Contract Quantity :** [ ]

**Time Unit :** 1 hour

**Total Supply Period :** From [ ] hours on [ / / ]  
to [ ] hours on [ / / ]

**Contract Price :**

**Tolerance : 0**

This Confirmation confirms the Individual Contract entered into pursuant to the EFET General Agreement Concerning the Delivery and Acceptance of Natural Gas between the Parties (General Agreement) and supplements and forms part of that General Agreement. In case of any inconsistencies between the terms of this Confirmation and the Individual Contract, please contact us immediately.

Date : \_\_\_\_\_

Signature : \_\_\_\_\_

# EFET

## European Federation of Energy Traders

### ANNEX 2 POLISH VP (B) to the General Agreement

#### CONFIRMATION OF INDIVIDUAL CONTRACT FOR POLISH VP TRANSACTIONS (FLOATING PRICE)

**BETWEEN:**

(1) \_\_\_\_\_ ("Seller"); and

(2) \_\_\_\_\_ ("Buyer").

concluded on [ / / ], [ : ] hours

**Delivery Point :** Polish VP

INTRA SYSTEM

**Relevant System :** OGP Gaz-System transmission grid

**Contract Quantity :** [ ]

**Time Unit :** 1 hour

**Total Supply Period :** From [ ] hours on [ / / ]  
to [ ] hours on [ / / ]

**Price Source :**

**Commodity Reference Price :**

**Alternate Commodity Reference Price :**

**Calculation Date :**

**Calculation Agent :**

**Calculation Method :**

**Tolerance : 0**

This Confirmation confirms the Individual Contract entered into pursuant to the EFET General Agreement Concerning the Delivery and Acceptance of Natural Gas between the Parties (General Agreement) and supplements and forms part of that General Agreement. In case of any inconsistencies between the terms of this Confirmation and the Individual Contract, please contact us immediately.

Date : \_\_\_\_\_

Signature : \_\_\_\_\_

# EFET

## European Federation of Energy Traders

### ANNEX 2 POLISH VP (C) to the General Agreement

#### CONFIRMATION OF INDIVIDUAL CONTRACT FOR POLISH VP TRANSACTIONS (CALL OPTION)

**BETWEEN:**

(1) \_\_\_\_\_ ("Writer"); and

(2) \_\_\_\_\_ ("Holder").

concluded on [ / / ], [ : ] hours

**Option Details :**

- (a) Option Type : Call
- (b) Option Style: American/European
- (c) Exercise Deadline :
- (d) Exercise Period: (if American Style Option)
- (e) Premium :
- (f) Premium Payment Date :

**Delivery Point :** Polish VP

**[X] INTRA SYSTEM**

**Relevant System :** OGP Gaz-System transmission grid

**Contract Quantity :** [ ]

**Time Unit :** 1 hour

**Total Supply Period :** From [ ] hours on [ / / ]  
to [ ] hours on [ / / ]

**Contract Price :**

**Tolerance : 0**

This Confirmation confirms the Individual Contract entered into pursuant to the EFET General Agreement Concerning the Delivery and Acceptance of Natural Gas between the Parties (General Agreement) and supplements and forms part of that General Agreement. In case of any inconsistencies between the terms of this Confirmation and the Individual Contract, please contact us immediately.

Date : \_\_\_\_\_

Signature : \_\_\_\_\_

# EFET

## European Federation of Energy Traders

### ANNEX 2 POLISH VP (D) to the General Agreement

#### CONFIRMATION OF INDIVIDUAL CONTRACT FOR POLISH VP TRANSACTIONS (PUT OPTION)

**BETWEEN:**

(1) \_\_\_\_\_ ("Writer"); and

(2) \_\_\_\_\_ ("Holder").

concluded on [ / / ], [ : ] hours

**Option Details :**

- (a) Option Type : Put
- (b) Option Style: American/European
- (c) Exercise Deadline :
- (d) Exercise Period: (if American Style Option)
- (e) Premium :
- (f) Premium Payment Date :

**Delivery Point :** Polish VP

INTRA SYSTEM

**Relevant System :** OGP Gaz-System transmission grid

**Contract Quantity :** [ ]

**Time Unit :** 1 hour

**Total Supply Period :** From [ ] hours on [ / / ]  
to [ ] hours on [ / / ]

**Contract Price :**

**Tolerance : 0**

This Confirmation confirms the Individual Contract entered into pursuant to the EFET General Agreement Concerning the Delivery and Acceptance of Natural Gas between the Parties (General Agreement) and supplements and forms part of that General Agreement. In case of any inconsistencies between the terms of this Confirmation and the Individual Contract, please contact us immediately.

Date : \_\_\_\_\_

Signature : \_\_\_\_\_