

**AGREEMENT ON REPORTING OF MARKET PARTICIPANT’S FUNDAMENTAL DATA TO ACER**

concluded in accordance with article 9(9) of the Commission Implementing Regulation (EU) No. 1348/2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (hereinafter the “**Implementing Acts**”) between:

Registered name: **POZAGAS a.s.**,  
Registered office at: Malé námestie 1, 901 01 Malacky, Slovak Republic,  
Registered in: the Commercial Register maintained by the District Court Bratislava I,  
section Sa, file No. 1271/B,  
Company ID: 31 435 688,  
VAT ID: SK2020357372,  
ACER Code: A00058077.SK,  
Banker details: Tatra banka, a.s.,  
SWIFT: TATR Sk BX,  
IBAN: SK1111000000002620003092,  
(hereinafter the “**Storage Facility Operator**”);

**and**

Registered name:   
Registered office at:   
Registered in:   
Company ID:   
VAT ID:   
ACER Code:   
Banker details:   
SWIFT:   
IBAN: 

(hereinafter the “**Customer**“ and jointly with the Storage Facility Operator referred to as the „**Parties**” and individually referred to as a “**Party**”)

**PREAMBLE**

WHEREAS the Storage Facility Operator and the Customer have entered into one (1) or more contracts on access to the Storage Facility and gas storage service (hereinafter the “**Gas Storage Contract**”) pursuant to the “Rules of Operation of POZAGAS a.s. stipulating general commercial conditions for access to the storage facility UNGSF Láb 4 and its utilization” (hereinafter the “**Rules of Operation**”) and pursuant to the “Technical Terms and Conditions of Access and Connection to Underground Natural Gas Storage Facility Láb 4 and Rules of Operation Thereof” (hereinafter the “**Technical Terms and Conditions**”);

WHEREAS the Agency for the Cooperation of Energy Regulators (hereinafter the “**ACER**”) is developing the “ACER REMIT Information System” (hereinafter the “**ARIS**”), which is the platform established to collect data according to the Implementing Acts. ACER has published several reference documents for the reporting of fundamental data (hereinafter the “**Supporting Documents**”), including:

- The “Manual of Procedures on transaction and fundamental data reporting”;
- The “Requirements for the registration of Registered Reporting Mechanisms (RRMs)” (hereinafter the “**RRM Requirements**”);

WHEREAS the Customer, as a Storage Facility user, is obliged to report to the ACER the amount of Gas the Customer has stored in the Storage Facility at the end of the Gas Day (hereinafter the “**Fundamental Data**”) in accordance with Article 9(9) of the Implementing Acts (hereinafter the “**Reporting Obligation**”);

WHEREAS the Customer requested by a written request that the Storage Facility Operator arranges the fulfilment of the Reporting Obligation on its behalf;

WHEREAS the Storage Facility Operator has entered into an agreement for the provision of fundamental data reporting services with Gas Infrastructure Europe (hereinafter the “**Contracted RRM**”) and agrees to arrange for the fulfilment of the Reporting Obligation on Customer’s behalf through Contracted RRM;

The Parties have AGREED on the following Agreement on Reporting of market participant’s fundamental data to ACER, which constitutes a data reporting agreement for the purposes of Article 9(9) of the Implementing Acts (hereinafter the “**Agreement**”):

## **ARTICLE 1 – DEFINITIONS**

1.1 The terms defined in the Rules of Operation, in the Technical Terms and Conditions and in the Gas Storage Contract used in this Agreement shall have the same meaning, unless this Agreement provides for or the context requires otherwise.

## **ARTICLE 2 – REPORTING SERVICES**

2.1 The Customer requests, appoints and authorizes the Storage Facility Operator to arrange the fulfilment of the Reporting Obligation on the Customer’s behalf through the Contracted RRM (hereinafter the “**Reporting Services**”), in accordance with the Implementing Acts and the Supporting Documents.

2.2 The Reporting Obligation and, accordingly, the Reporting Services, remain at all times subject to change as a result of further regulatory developments and ACER guidance and Parties agree to notify each other as soon as reasonably practicable in writing upon becoming aware of any such change.

### **ARTICLE 3 – SOURCE OF FUNDAMENTAL DATA**

- 3.1 The Customer authorizes the Storage Facility Operator to use the data, which is available to the Storage Facility Operator in relation to Customer's usage of the Storage Facility under the Gas Storage Contract, for provision of the Reporting Services.

### **ARTICLE 4 – OBLIGATIONS AND RESPONSIBILITIES OF THE STORAGE FACILITY OPERATOR**

- 4.1 The Storage Facility Operator shall arrange for provision of the Reporting Services through the Contracted RRM in accordance with the Implementing Acts and the Supporting Documents. The Storage Facility Operator shall be obliged to arrange for provision of the Reporting Service only if there is at least one (1) valid and effective Gas Storage Contract between the Parties and the Customer has Gas stored in the Storage Facility under such Gas Storage Contract.

If the Storage Facility Operator becomes aware of a possible suspension or cessation of the Contracted RRM's status as RRM, then the Storage Facility Operator will notify the Customer in writing thereof as soon as possible. In this case, the Storage Facility Operator shall provide reasonable assistance to the Customer in transitioning to an alternative RRM who is able to carry out the Reporting Obligation (if applicable).

- 4.2 Upon Customer's request, the Storage Facility Operator shall send to the Customer in a manner agreed by the Parties in advance to the Customer's email address: [REDACTED] (or such other email address notified by the Customer to the Storage Facility Operator at least five (5) business days in advance) the following: (i) each report sent to the Contracted RRM on behalf of the Customer and (ii) each validation report received from the Contracted RRM concerning the Fundamental Data report.

- 4.3 The Storage Facility Operator shall provide the Customer with (i) reasonable notice of planned system outages and other matters affecting the Reporting Services and (ii) immediate notice for unplanned system outages, suspension, interruption or temporary unavailability affecting the Reporting Services, but will not be responsible for:

- Any suspension, interruption, temporary unavailability or fault occurring in the provision of the IT system, through no fault of the Storage Facility Operator and/or the Contracted RRM;
- Any loss or damage incurred as a result of the malfunction, instability or unavailability of systems, equipment or services delivered by third parties through no fault of the Storage Facility Operator and/or the Contracted RRM, including force majeure and the unavailability of ARIS;
- The further processing of, or failure to process, any data after the Contracted RRM has reported any such data to ACER (ARIS).

- 4.4 The Storage Facility Operator shall not be in breach of this Agreement if, and to the extent that, the performance of its obligations is prevented or rendered impossible by a breach of this Agreement or other act or omission by the Customer.

#### **ARTICLE 5 – DATA RESPONSIBILITY**

- 5.1 The Storage Facility Operator shall take reasonable steps to verify completeness, accuracy and timeliness of the Fundamental Data provided to the Contracted RRM on behalf of the Customer. However, the Storage Facility Operator shall not be held responsible for the correctness, completeness, timeliness and format of Fundamental Data.
- 5.2 The Storage Facility Operator shall not be held responsible for any information sent by the Customer to ACER by channel other than agreed by this Agreement.
- 5.3 If the Storage Facility Operator is unable to transfer the Fundamental Data to the Contracted RRM in due time, then the Storage Facility Operator will notify the Customer and the Contracted RRM immediately and will provide the missing data as soon as reasonably practicable.
- 5.4 If the Storage Facility Operator becomes aware of an error in the data, it will immediately notify Customer and the Contracted RRM and together with the Customer and the Contracted RRM will use reasonable efforts to rectify any such error and re-submit the relevant correct data.

#### **ARTICLE 6 – TERM OF THE AGREEMENT AND TERMINATION**

- 6.1 This Agreement shall become valid and effective on the day it is signed by the authorized representatives of both Parties and shall remain in effect for an indefinite term. For avoidance of any doubt this Agreement shall not become effective before 7<sup>th</sup> April 2016, which is the date when according to the Implementing Acts the reporting obligation related to the Fundamental Data enters into force.
- 6.2 This Agreement will automatically terminate upon:
- Suspension or cessation of the Contracted RRM's status as RRM;
  - Termination of the agreement for the provision of fundamental data reporting service between the Storage Facility Operator and the Contracted RRM.

The Storage Facility Operator will inform the Customer about the occurrence of the events set out in this Article 6.2 as soon as reasonably practicable.

- 6.3 The Customer may terminate this Agreement at any time by giving written notice to the Storage Facility Operator at the latest one (1) month prior to the requested termination date. Storage Facility Operator may terminate this Agreement at any time by giving written notice to the Customer at the latest two (2) months prior to the

requested termination date. The notice letter shall specify the duration of the notice period and the termination date.

6.4 On termination of this Agreement for any reason:

- The Storage Facility Operator will stop providing the Reporting Services;
- The Contracted RRM shall keep a record of the information transferred to and received from ACER for a period of twelve (12) months after termination in accordance with the RRM Requirements. This information will be accessible to the Customer through Storage Facility Operator during that period. After that period, the Customer may request the Storage Facility Operator to arrange deletion of all data related to the Customer from the Contracted RRM IT system.

6.5 Termination shall not affect rights or obligations accrued at the time of termination. Any provision of this Agreement which by nature is intended to survive termination shall remain binding until such rights or obligations have been satisfied or released.

## **ARTICLE 7 – FEES, INVOICING AND PAYMENT**

7.1 The price for provision of the Reporting Services (hereinafter “**Price**”) shall be calculated and invoiced in accordance to the Pricelist published by the Storage Facility Operator on [www.pozagas.sk](http://www.pozagas.sk).

7.2 The Storage Facility Operator has the right to suspend the Reporting Services to the Customer, without liability to the Customer in case the Customer does not pay Price when due pursuant to Pricelist.

## **ARTICLE 8 – LIABILITY**

8.1 Parties shall, at all times, perform their obligations under this Agreement with reasonable care, provided that no Party shall be required to do, or cause to be done, anything which is contrary to any law, rule or regulation or that such Party is otherwise prevented from doing by any law, rule or regulation.

8.2 The liability of each Party under this Agreement shall be limited to direct and proven damages, which result from breaches of obligations under this Agreement and shall never exceed the amount of 1,000 EUR per calendar year. The cap does not apply in case of gross negligence, willful misconduct or fraud.

8.3 Neither Party shall be liable to the other Party for any loss of profit, loss of business, loss of goodwill, or any other indirect incidental, special or consequential damages of any kind arising from a breach of their obligations under this Agreement.

8.4 Neither Party shall be entitled to hold the other Party’s group companies, officers, employees or contractors liable for any breach by the other Party of the Agreement.

8.5 Under no circumstances shall either Party be liable to the other Party for any failure to perform its obligations where such failure results from causes beyond that Party’s

reasonable control, provided however, where possible, that the affected Party gives prompt notice to the other Party of its failure to perform its obligations for causes beyond its reasonable control, and uses its reasonable efforts to mitigate the effects of such causes.

## **ARTICLE 9 – CONFIDENTIALITY AND DISCLOSURE**

9.1 The Parties shall consider the following information to be confidential:

- Any Fundamental Data; though Storage Facility Operator and the Contracted RRM shall be entitled to use such data as deemed necessary by the Storage Facility Operator and the Contracted RRM to perform the Reporting Services;
- Other information indicated as confidential by the providing Party.

This confidential information can be disclosed by a Party without the consent of the other Party if required to be disclosed by law, regulation or a court order. The same also applies if the confidential information is disclosed to any of the Parties' professional advisers.

Storage Facility Operator shall be entitled to make confidential information available to the operator of the connected storage (incorporated as NAFTA a.s., with its registered seat at Votrubova 1, 821 09 Bratislava, Slovak republic, Company ID: 36286192, registered in Commercial Register maintained by District Court Bratislava I, section Sa, file No. 4837/B) to the extent in which it takes part on the Reporting Services, and to the extent necessary for the performance of the dispatching activities under Section 18.11 of the Rules of Operation under condition, that connected storage operator is committed by the confidentiality in regards to the confidential information.

9.2 Any data or information provided by one Party to the other Party pursuant to this Agreement shall be used by the receiving Party only for the intended purposes and in connection with this Agreement or the Gas Storage Contract and for no other purpose without the prior written consent of the disclosing Party. Any such data or information and any intellectual property rights contained therein shall remain the property of the disclosing Party such that the receiving Party shall have no other rights as to such information or data save as set out in this Agreement or the Gas Storage Contract.

## **ARTICLE 10 – MISCELLANEOUS**

10.1 For avoidance of any doubts regarding the matters not specified by this Agreement, the contractual relationship set out by this Agreement herein shall be governed by stipulations of the Gas Storage Contract.

10.2 Each Party shall provide reasonable assistance to the other Party in complying with any request for further information from ACER under this Agreement.

10.3 This Agreement, nor the rights and obligations under it, may not be assigned or transferred by a Party without the prior written consent of the other Party.

10.4 This Agreement is intended solely for the benefit of the Parties. Nothing in this

Agreement shall be construed to create any duty to, standard of care with reference to, any liability to, or any right of suit or action in, any person not a Party to this Agreement.

10.5 No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent is given in writing and signed by the Party claimed to have waived or consented. The waiver by either Party of any right hereunder, or of the failure to perform or of a breach by the other Party, shall not be deemed to be a waiver of any other rights hereunder or of any other breach or failure by the other Party, whether of a similar nature or otherwise.

10.6 Nothing contained in this Agreement is intended or shall be construed to create any partnership, joint venture or agency relationship between the Parties.

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In ..... on the day of .....

In Malacky on the day of .....

**CUSTOMER**

[Redacted]

**STORAGE FACILITY OPERATOR**

POZAGAS a.s.

Name:

Position:

[Redacted]

Name:

Position:

\_\_\_\_\_

Name:

Position:

[Redacted]

Name:

Position:

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