



**CONTRACT NO PGE/DOL/...../...../20....
 on making the railway infrastructure available**

concluded on in Lublin between

PGE Energia Ciepła Spółka Akcyjna with registered Office in Warsaw, Building Skylight, XII p. 59 Złota Street, registered in district Court for the Capital Town of Warsaw, XII Economic Department of the National Court Register under KRS number 0000013479, NIP 6420000642, Company Capital Stock of 1 471 190 070,00 PLN fully paid in, represented by

1. Mr. Paweł Okapa – Director of Oddział PGE Energia Ciepła Spółka Akcyjna Oddział Elektrociepłownia w Lublinie Wrotków 20-484 Lublin ul. Inżynierska 4.
2.

hereinafter called **the Administrator of Railway Infrastructure or „DOL”**
and

.....

 under KRS number, with NIP number:....., with capital stock ofPLN, represented by:

1.
2.

hereinafter called **the Carrier**

**§1
 Subject matter of the contract**

1. The subject matter of the contract is making available by „DOL” the railway siding infrastructure i.e. tracks, turnouts, railway traffic control facilities, two-way channel associated with continuation of railway traffic on the siding tracks of „DOL” by the Carrier

**§2
 Date of the contract performance**

1. The contract is binding for parties from201...
2. The date of contract completion on

**§3
 Duties of the Administrator of Railway Infrastructure**

1. The scope of „DOL” duties encompasses the following
 - 1.1. in course of execution of handling travels by the carrier to the siding tracks:
 - 1.1.1. preparing the tracks of handover – takeover group for handling train set receipt;
 - 1.1.2. preparing the travel route in case of train set entry into the inner track No 104
 - 1.1.3. opening of entrance gate.

- 1.2. in course of execution of handling travels by the carrier in the direction of Lublin railway station:
 - 1.2.1. setting the travel route to departure
 - 1.2.2. closing of entrance gate.

§4

Duties of the Carrier

1. The scope of **the Carrier's** duties encompasses the preparation of railway infrastructure for handover or reception of wagon shipments, and in particular:
 - 1.1. at arrival:
 - 1.1.1. obtainment of entry clearance from the Signalman LbA1,
 - 1.1.2. receipt with signature the key for switch locks 26+ and 2cd+.
 - 1.1.2. preparing the entry travel route through setting and closing of switches and derailleurs in position determined in relevant table (exclusively in case of shipments addressed as the shipments to be served by **the Carrier**).
 - 1.1.3. operation of key contingency box
 - 1.2. in course of receipts of shipments on handover – take over tracks of „DOL” siding:
 - 1.2.1. shall carry out of wagons acceptance and prepare relevant carriage documents;
 - 1.2.2. shall carry out of wagon shipments acceptance in accordance with the requirements in the scope of occupational safety and health, fire protection as well as with applicable regulations mandatory on the siding of **the Administrator of Railway Infrastructure**;
 - 1.2.3. shall be fully responsible for its personnel performing the activities associated with receipt or sending of wagon shipments on handover – take over tracks of the siding;
 - 1.2.4. shall be fully responsible for damages caused by its personnel occurred on the siding of **the Administrator of Railway Infrastructure**;
 - 1.3. at departure:
 - 1.3.1. obtainment of departure clearance from the Signalman LbA1,
 - 1.3.2. setting the travel route to departure.
 - 1.3.3. after completion of the last travel, the switches of turnouts shall be repositioned correspondingly to the basic position and closed by means of switch locks;
 - 1.3.4. keys for switch locks 26+ and 2cd+ should be returned to the Signalman LbA1
1. **The Carrier** shall furnish the schedule of planned supplies of wagon shipments to „DOL” 30 days before the commencement of carriages.
2. **The Administrator of Railway Infrastructure** has the right to carry out routine checks of **the Carrier's** activities in respect of occupational safety and health, fire protection as well as environment protection in its siding premises in course of performing handling works.
3. In case of handling works carried out at „DOL” siding in two handling zones, such works are coordinated by appointed employee of **the Administrator of Railway Infrastructure**.

§5

Work time

1. The access to „DOL” the railway infrastructure will take place on working days from 6.00AM to 2.00PM . „DOL” allows the possibility to establish different work time for the siding to be agreed with **the Carrier** in writing. All weekdays excluding Saturdays and statutory holidays will be the working days.
2. **The Administrator of Railway Infrastructure** shall not bear any financial consequences caused by different organization of handling works carried out by the Carrier without consideration of established work time of the siding.

§6 Confidentiality

1. Any information obtained by the Parties in connection with the awarding or performance of an order, including also the content of the Contract and its conditions are confidential and can be disclosed to the third persons in course of the performance of an order and thereafter only in case of unanimous will of the Parties while the „DOL” is entitled to disclose any information concerning the conditions and manner of the awarding or performance of specified Contract to PGE Polska Grupa Energetyczna S.A. owing to the scope of existing capital relations.
2. **The Carrier** declares that, in connection of the public company status possessed by PGE Polska Grupa Energetyczna S.A. as the dominant subject towards the „DOL”, **the Carrier** gives its consent for making public the information concerning this Contract in the scope indicated in the Regulation issued by competent minister concerning the current and interim information handed over by the issuers of securities as well as on the conditions under which such information may be recognized as being equivalent to information required by the regulations of law of a state other than the member state and for the handover of this Contract to PGE Polska Grupa Energetyczna S.A. in order to enable the obligations to be performed by PGE Polska Grupa Energetyczna S.A. in the scope of lawful information pursuant to the act on public offer and conditions governing the introduction of financial instruments to organized trading and on public companies.
3. „DOL” is also entitled to disclose required information to third parties if such obligation exist under applicable laws or if it is required to ensure proper operation, overhaul or modernization of the facilities owned by „DOL”.

§7 Price /Payment

1. Handling fee for making the railway siding available shall be equal to net amount ofPLN per wagon increased by value added tax (VAT) in the amount payable as at the day of invoice issuance, to be paid by **the Carrier**.
2. Handling fee for execution of handling activities by means of TEM2 locomotive including handling team shall be equal toPLN per hour of work increased by value added tax (VAT) in the amount payable as at the day of invoice issuance, to be paid by **the Carrier**.
3. The payments of receivables referred to in subparagraph 1 and 2 will be made by **the Carrier** in the form of transfer within 21 days after the receipt of VAT invoice to the account of „DOL” indicated in VAT invoice.
4. VAT invoice will be issued as at end of month in the amount resulting from subparagraph 1 and 2 on the basis of handover – takeover protocol.
5. The fees referred to in subparagraph 1 and 2 will be subject to change every year. The change will consist in the fees revalorization by the index of consumer goods and services price increase announced by the President of Supreme Statistical Office (GUS) for the previous year in the change by „DOL” costs calculation by the index of calculation elements increase independent on „DOL”. Determination of revalorized fee will take place in January specified year and will be effective on the of announcement of that year without the necessity to conclude an annex to the contract.
6. VAT invoice or correcting invoice issued in a manner non-conforming with applicable regulations will result in delayed payment thereof until the furnishing of correcting note or confirmation of correcting note.
6. In case of due date of payment falling on Saturday or on statutory holiday, the date of payment falls on the first business day after such non-business day..
7. In case of delayed date payment of the fee for making the railway infrastructure available, statutory interest will be calculated for each day of payment delay.

§8 Liability

1. Liability of **the Administrator of Railway Infrastructure** in connection with for payable making the railway siding being the subject matter of the Contract does nor encompass lost benefits and will be not greater than 100% of remuneration obtained for the Contract performance.
2. **The Administrator of Railway Infrastructure** shall be not liable for liquidated damages incurred by the Carrier and compensations resulting from the contract concluded without the consent of **the Administrator of Railway Infrastructure**.
2. Liability of Parties in case of non-performance or improper performance of the Contract shall be excluded by the acts of Force Majeure. The Force Majeure consist in sudden and unpredictable events which could not be prevented and which affect the performance of the present Contract in a manner making the Contract performance impossible in whole or in part during certain period of time or definitely, the consequences of which could not be foreseen or prevented by the

Parties, particularly in case of circumstances indicated in subparagraph 4.

4. "Force Majeure" is defined by the Parties as the acts of terror, wars declared or not, blockades, insurrections, riots, epidemics, landslips, earthquakes, floods, explosions and other events meeting the conditions referred to in subparagraph 3.
5. The Party affected by force majeure has the following obligations:
 - 5.1. The occurrence and cessation of „Force Majeure” should be reported to the other Party by the Party affected by its influence. The notifications - by means of posted letter, courier, phone or fax shall be sent without unnecessary delay to the other Party within maximum 14 (fourteen) days after the occurrence of „Force Majeure”.
 - 5.2. In case of notification by phone, this notification should be confirmed immediately in writing. The documentation explaining the nature and reasons of occurred Force Majeure should be presented to the other Party, as far as reasonably achievable, within seven (7) days after the date of written confirmation of the notification informing occurrence of force majeure, under pain of loss of the rights resulting from the present paragraph..
 - 5.3. Unless the events of Force Majeure are not ceased within 14 (fourteen) days after the date of written notification of the occurrence of Force Majeure to the other Party, the Parties shall meet in order to take the steps in order to avoid further delay in performance of the Contract..
6. In case of the events of Force Majeure lasting during the period exceeding 90 days, the Parties are entitled to terminate the Contract with one week termination notice..

§9

Contract termination

1. Each Party shall be entitled to terminate the contract with thirty (30) days termination notice.
2. "DOL" may terminate the Contract with immediate effect in case of flagrant infringement of contractual conditions **by the Carrier**.
3. In particular, the flagrant infringement of contractual conditions consist in serious accident and property damage in the premises of „DOL” siding through the fault of **the Carrier**.
4. "DOL" may terminate the Contract with immediate effect in case of the delay of payment of remuneration to be made to „DOL” more than sixty (60) days after the day of its maturity, irrespective of fulfilment by „DOL” all its obligations required for payment to be made by **the Carrier**.
5. „The notice of the Contract termination is possible exclusively in writing under the pain of nullity.

§10

Principles to be followed in case of occurrence of an accident or incident on the railway siding of the Administrator of Railway Infrastructure and Carrier

1. **The Carrier** shall be required to inform „DOL” about each event (accident, incident) with participation of its handling team and shall make it possible to carry out the investigation in order to establish the circumstance of the event occurrence.
2. In case of derailing of railway vehicle occurred in the premises of "DOL" siding or on access tracks to its siding, **the Carrier** shall organize technical rescue operation at its own expense without undue delay
3. In case of occurrence of accidental events or failures endangering the natural environment, **the Carrier**, without undue delay, will participate in the works of investigation committee in order to determine the reason and the scope of liability of the parties.
3. Mutual claims for damages for incurred losses in connection with the occurrence of railway accidents in „DOL” operation area will be included in "Protocols of the final findings" on investigation completed by the Railway Committee under the leadership of „DOL”.
4. After the previous notification of **the Carrier** in writing, „DOL” shall be entitled to appoint other representative who will preside over the works of committee referred to in subparagraph 4 of the present paragraph.

§11

Assignment of rights and duties

1. „DOL” may assign to any subject or transfer its debt to a company being a member of Grupa Kapitałowa PGE or to any dependent subject (subsidiary) in the meaning of the act of 29th July 2005 on public offer and on conditions governing the introduction of financial instruments into organized trading system and on public

- companies, and the **Carrier** herewith gives its consent hereto.
2. „DOL” will inform **the Carrier** in writing about intended transfer of debt to the subject other than indicated in subparagraph 1 at least 7 (seven) days before intended transfer.
 3. **The Carrier** will give its consent for debt transfer or not within three (3) days after receipt of information referred to in subparagraph 2. Lack of information from **the Carrier** will be interpreted by the Parties as its consent for debt takeover.
 4. **The Carrier** must not assign any rights or duties resulting from the Contract to third persons without previous consent of „DOL” to be given in writing under the pain of nullity.

§ 12 Negotiations

1. The Parties undertake to commence and to carry out the negotiations in order to amend the Contract in the following cases:
 - 1.1. change in applicable laws affecting the implementation of any contractual provisions;
 - 1.2. change in legal situation of any party affecting the implementation of any contractual provisions;
 - 1.2. when the Contract performance in accordance with its provision by any Party will become unprofitable in changing market conditions;
 - 1.3. obligations affecting the implementation of any contractual provisions, imposed on any Party, by regulatory authorities
 - 1.4. in other cases which are essential for „DOL” interests.
2. The Parties undertake to carry out the negotiations in good faith and maintain due diligence.
3. The Parties shall commence the negotiations within fourteen (14) day after the information from either Party in writing about the occurrence of the case causing the necessity to carry out the negotiations. The date and place of the commencement of negotiations will be indicated by the Party initiating the commencement thereof. On justified request of the other Party, the date and place of the commencement of negotiations can be agreed by the Parties. The negotiations will be carried out during the period of thirty (30) days from their commencement with possibility of their extension by additional period of fourteen (14) days by mutual agreement.
4. Either Party may terminate the Contract with immediate effect in the following cases:
 - 4.1. the other Party fails to enter the negotiations on indicated or agreed date;
 - 4.2. the other Party interrupts the negotiations without giving a reason when, from the existing circumstances it appears that it will be impossible to reach a common position within time limit indicated in the Contract;
 - 4.3. failure to reach a common position concerning the amendments in the Contract within time limit determined for negotiations;
 - 4.4. failure to sign, within thirty (30) days from reaching of common position by the Parties, relevant annex of agreement to the Contract considering the common position achieved by the Parties within time limit assumed for negotiations.
5. The cases specified above will be interpreted as the infringement of contractual obligations. In such case, the Parties may apply their right to terminate the Contract without maintaining the period of notice within seven (7) days from the lapse of deadline anticipated for:
 - I commencement of negotiations for subparagraph 4.1. above,
 - II continuation of negotiations for subparagraph 4.2. and 4.3. above
 - III signature of annex of agreement referred to in 4.4. above.

§13 Final provisions

1. Polish language will be the language of the Contract and will be used for any correspondence between the Parties.
2. The provisions included in the Polish Civil Code, Carriage laws and railway regulations are applicable in matters not governed in the present Contract
3. In case of occurrence of any disputes the Parties will make any efforts to negotiate in order to find an amicable solution before potential quarrel in law. The Parties undertake to commence the talks within seven (7) days after the date of information about occurred dispute by any Party. In case of impossibility to reach an amicable solution within thirty (30) days after the date of information about occurred dispute. Any disputes arising in connection with the performance of the present Contract will be resolved by a competent common court having jurisdiction over the headquarters of „DOL”.



4. The Parties agree that in case of the occurrence of any legal events as a result of which the economic or trade activity of either Party of the Contract will be taken over by other entity, the rights and duties resulting from the present Contract will be handed over by that entity if it will be possible in accordance with applicable laws.
5. The present Contract has been prepared in two (2) identical copies, one copy for each Party.

Carrier

Administrator of Railway Infrastructure

1.....

1.....

2.....

2.....