**AGREEMENT**

**FOR A TRANSFER OF PROPERTY RIGHTS TO SECURE LIABILITIES**

**(“Agreement”)**

entered into in Warsaw on ................. by and between:

Izba Rozliczeniowa Giełd Towarowych S.A. with its registered office in Warsaw at ul. Książęca 4, entered in the Register of Commercial Undertakings kept by the District Court for the Capital City of Warsaw, 12th Commercial Division of the National Court Register, under file number 0000321809, with the share capital of PLN 44,805,000.00 (forty-four million eight hundred five thousand Polish zloty), paid up in full, NIP 525-244-16-34, represented by:

……………………………………………………

…………………………………………………..

hereinafter referred to as “IRGiT” or the “Clearing House”

and

............................... with its registered office in ..............................., address: ..............................., entered in the Register of Commercial Undertakings of the National Court Register kept by ............................... under file number ..............................., REGON: .................., NIP: .................., with the share capital of PLN ......................, represented by:

……………………………………………………

…………………………………………………..

hereinafter referred to as the “Company”

IRGiT and the Company shall hereinafter be jointly referred to as the Parties, and each separately as a Party.

Whereas:

1. On ......................., the Company entered into a surety agreement with IRGiT (hereinafter: “Surety Agreement”) for the liabilities of ........................... with its registered office in ........................... (hereinafter: “Brokerage House”);
2. In the Certificates of Origin Register kept by Towarowa Giełda Energii S.A. (hereinafter: “Certificates of Origin Register” and “Polish Power Exchange”, respectively), the Company holds Property Rights which, in accordance with the Surety Agreement, shall secure its liabilities specified thereunder;
3. The rules for determining the value of the Property Rights securing the liabilities under the Surety Agreement are laid down in the Detailed Clearing and Settlement Rules within the meaning of the Regulations of the Exchange Clearing House (Commodity Market) (hereinafter: “ECH Regulations”);

Now therefore the Parties resolve as follows:

1. The Company declares that it will deposit the Property Rights in the Certificates of Origin Register up to the total number of ........................ (........................) to secure its liabilities to be determined in accordance with the Surety Agreement.
2. The number of the deposited Property Rights shall be determined and transferred to IRGiT in the form of Representations by the Company (hereinafter: “Representation”), containing a statement for blocking or unlocking a certain volume of Property Rights, to be sent electronically via the Brokerage House, in the form of a scan, to the following e-mail address: dzr@irgit.pl.
3. In order to increase the volume of the deposited Property Rights, the Company shall provide, in accordance with sec. 2, an appropriate Representation based on which the Polish Power Exchange shall transfer a specific volume of Property Rights to the registration account indicated by IRGiT in the Certificates of Origin Register.
4. In order to reduce the volume of the deposited Property Rights, IRGiT shall submit to the Polish Power Exchange a statement for transferring the volume of Property Rights specified in the Representation to the Company’s registration account in the Certificates of Origin Register in a manner enabling the Company to freely dispose of the Collateral. Two business days before the date of transfer specified in the Representation, as referred to in the preceding sentence, the Property Rights covered by such Representation shall not be taken into account when determining the level of coverage of the collateral margins by the Brokerage House. IRGiT may refuse to transfer a specific volume of Property Rights if the Brokerage House fails to cover the collateral margins required as at the date of transfer of the Property Rights in the Certificates of Origin Register.
5. The Property Rights deposited in accordance with the terms set forth in sec. 1–4 above (hereinafter: “Collateral”) shall form the basis for determining, in accordance with the terms set forth in the Surety Agreement, the level of non-cash collateral contributed to the non-cash collateral register kept by IRGiT.

The Company hereby represents that the Collateral is its sole property, that it is not encumbered with any third party rights, that its disposal by the Company is not subject to any statutory or contractual restrictions and that the Company has obtained the required corporate consents to effect the transfer of title to secure its liabilities.

1. In order to secure the performance of the obligations specified in the Surety Agreement, the Company hereby transfers the Collateral to IRGiT and authorizes IRGiT to sell the Collateral in accordance with the terms set forth in § 4, subject to the condition that if:
2. the Company’s obligations under the Surety Agreement expire, or
3. the Brokerage House makes a cash payment or submits any non-cash collateral accepted by IRGiT in an amount corresponding to the required value of the collateral margin and transaction margin (within the meaning of the ECH Regulations), or
4. the Brokerage House’s liabilities (within the meaning of the Surety Agreement) expire in respect of the transactions executed at the Company’s request and in respect of the settlements carried out by IRGiT for such transactions, which is confirmed in writing by IRGiT, and the Brokerage House ceases to execute and clear transactions at the Company’s request;

IRGiT shall, after receiving a written request from the Company accepted by the Brokerage House, within one business day from the date of receipt of such request, take all actions necessary to take into account the reverse transfer of the Property Rights in the Certificates of Origin Register.

1. In the event that the Company, in accordance with the Surety Agreement, is required towards the Clearing House to satisfy any claims that have not been satisfied by it, IRGiT as the entity managing the clearing guarantee system on the terms laid down in the ECH Regulations shall satisfy such claims from the Collateral in accordance with the principles provided for in this paragraph.
2. IRGiT may, in the event specified in sec. 1, sell the Collateral and satisfy the claims referred to in sec. 1 from the obtainable purchase price at which IRGiT, acting in a commercially reasonable manner, is able to sell the Collateral. IRGiT shall promptly return to the Company any surplus of funds remaining after such sale.
3. The amount obtained from the sale of the Collateral shall be credited by IRGiT towards the Company’s liabilities to IRGiT arising from the Surety Agreement, taking into account in the first place any costs incurred by it related to the enforcement of such receivables. If the price obtained from the sale of the Collateral does not fully cover the Company’s liabilities, IRGiT shall have the right to pursue them until the Company’s liabilities have been fully covered.
4. In the situation described in this paragraph, IRGiT, before performing the actions described in sec. 2, shall inform the Company of its intention to sell the Collateral, at the same time calling on it to remedy the breaches referred to in sec. 1 within one business day from the date of receipt of such notification. If the Company remedies such breaches within the time limit specified above, IRGiT shall abandon its intention to sell the Collateral. The Parties shall deem effective any notification sent to the following e-mail addresses: ................, with the reservation that on the date of sending the message to the indicated e-mail addresses IRGiT sends the original of the notification to the Company via registered mail.
5. For the avoidance of doubt, the Parties hereby confirm that IRGiT is entitled to dispose of the Collateral only to the extent specified in this Agreement.

Any documented costs related to the transfer of the Property Rights to secure the Company’s liabilities and to satisfy IRGiT’s receivables shall be incurred by the Company, provided that they do not exceed the standards and business practice adopted in such relationships.

1. In connection with the execution and performance of the Agreement, each Party provides the other Party with personal data of persons authorized to represent it as well as personal data of persons indicated for business contacts.
2. The Parties hereby represent that they comply with the applicable personal data protection regulations, in particular the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (“GDPR”), the provisions Personal Data Protection Act of 10 May 2018 and all implementing regulations issued on their basis that are applicable to personal data processing, and shall take the necessary technical and organizational actions to protect such data.
3. Each Party shall be the controller of the personal data provided to it, as referred to in sec. 1, and shall process such data for the purposes arising from the legitimate interests of the data controller and to fulfill the legal obligations imposed on the controller.
4. Each Party undertakes to fulfill its information obligation in the above scope in accordance with the applicable regulations. IRGiT’s information clause constitutes Appendix 3 to the Agreement.
5. This Agreement is executed for an indefinite term with effect from ..........
6. Each Party may terminate this Agreement with a 1-month notice effective as of the end of the calendar month.
7. Any amendments to this Agreement shall be null and void unless made in writing, except for amendments to the contact persons or e-mail addresses, which shall only require a declaration by the Party concerned, signed by its authorized persons in accordance with the rules of representation.
8. The applicable provisions of the Civil Code shall apply to any matters not governed by this Agreement.
9. Any disputes arising from this Agreement shall be submitted by the Parties for resolution to the court of arbitration at the Polish Power Exchange in Warsaw.
10. This Agreement has been executed in two identical counterparts – one for the Company and one for IRGiT.

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 **IRGiT Company**

Appendix 1

**Statement for blocking Property Rights to secure the Applicant’s liabilities**

**Request for:**

Towarowa Giełda Energii S.A. [Polish Power Exchange]

Certificates of Origin Register

ul. Książęca 4

00-498 Warsaw

**Applicant:**

|  |  |
| --- | --- |
| Name  |  |
| COR code |  |
| Address |  |
| Date of request |  |

We, the undersigned, hereby request the blocking of the Property Rights indicated below, held by us in the Certificates of Origin Register, to secure the liabilities arising from the Agreement for a transfer of Property Rights to secure liabilities (“Agreement”) entered into by and between the Applicant and Izba Rozliczeniowa Giełd Towarowych S.A. (IRGiT):

|  |  |
| --- | --- |
| **Instrument** | **Quantity of Property Rights** |
| PMOZE\_A |  |

At the same time, we authorize the Polish Power Exchange to transfer the said Property Rights to the registration account specified by IRGiT.

Following such transfer, the total number of Property Rights blocked to secure the Applicant’s liabilities in accordance with the Agreement will be ..................

............................... ................................

*Signatures of persons authorized to represent the Applicant*

Appendix 2

**Statement for unblocking Property Rights**

**Request for:**

Towarowa Giełda Energii S.A. [Polish Power Exchange]

Certificates of Origin Register

ul. Książęca 4

00-498 Warsaw

**Applicant:**

|  |  |
| --- | --- |
| Name  |  |
| COR code |  |
| Address |  |
| Date of request |  |

We, the undersigned, hereby request the unblocking, as of ..................., of the Property Rights indicated below, held by us in the Certificates of Origin Register, in order to reduce the volume of Property Rights provided to secure the liabilities arising from the Agreement for a transfer of Property Rights to secure liabilities (“Agreement”) entered into by and between the Applicant and Izba Rozliczeniowa Giełd Towarowych S.A. (IRGiT):

|  |  |
| --- | --- |
| **Instrument** | **Quantity of Property Rights** |
| PMOZE\_A |  |

At the same time, we authorize the Polish Power Exchange to transfer the said Property Rights to the Applicant’s registration account.

Following such transfer, the total number of Property Rights blocked to secure the Applicant’s liabilities in accordance with the Agreement will be ..................

............................... ................................

*Signatures of persons authorized to represent the Applicant*

Appendix 3

**Information clause on the processing of personal data by Izba Rozliczeniowa Giełd Towarowych S.A. in connection with the requirements of Articles 13 and 14 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), hereinafter referred to as the “GDPR”.**

The controller of the data the subjects of which are persons authorized to represent the entity and of the data the subjects of which are persons designated for business contacts is Izba Rozliczeniowa Giełd Towarowych S.A. (IRGiT), ul. Książęca 4, 00-498 Warsaw, tel. +48 22 341 99 01, irgit@irgit.pl.

The controller has appointed a Data Protection Officer who may be contacted by e-mail at iod@irgit.pl.

The scope of personal data processed by IRGiT includes the first and last name, business e-mail address, business telephone number and name of the position held and, for persons authorized to represent the entity, their first and last name, position and data contained in the current excerpt from the relevant register or data contained in the power of attorney.

The personal data of individuals authorized to represent the entity and the data of persons designated for business contacts will be processed by IRGiT in compliance with Article 6(1)(f) GDPR, i.e. on the basis of a legitimate interest pursued by the controller, namely verification of the correct representation of the entity in connection with a submitted declaration of intent, conduct of communication related to the execution or performance of agreements, maintenance and development business relationships, establishment, investigation of or defense against any claims.

The recipients of such data may be the processors of personal data on behalf of IRGiT in connection with services provided to IRGiT, in particular consulting, auditing, financial and accounting or IT services.

Personal data will be processed during the term of the agreement between IRGiT and the counterparty, following which such data will be stored for the time necessary to make pertinent clearings and establish, investigate or defend against any claims.

Each person has the right to request access to their personal data, rectify or delete such data, restrict their processing or have them transferred.

Each person has the right to file an objection against the processing of their personal data to the extent to which the basis for the processing of their personal data is the legitimate interest of the Controller.

Each person has the right to file a complaint against the processing of their data with the President of the Personal Data Protection Authority.

The provision of the data the subjects of which are persons authorized to represent the entity and of the data the subjects of which are persons designated for business contacts is a condition for the execution of the agreement.