**UGOVOR O ČUVANJU POVERLJIVIH PODATAKA**

**NON-DISCLOSURE AGREEMENT**

Između/between

GASTRANS društvo sa ograničenom odgovornošću Novi Sad

i/and

**[•][[1]](#footnote-2)**

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| UGOVOR O ČUVANJU POVERLJIVIH PODATAKAOvaj Ugovor o čuvanju poverljivih podataka (u daljem tekstu: „**Ugovor**“) je zaključen dana [•][[2]](#footnote-3).2018. godine između sledećih strana: 1. **Gastrans društvo sa ograničenom odgovornošću Novi Sad**, privrednog društva osnovanog u skladu sa propisima Republike Srbije, sa sedištem na adresi Narodnog fronta 12, Novi Sad, matični broj: 20785683, kojeg zastupaju direktori Dušan Bajatović i Alexander Syromyatin (u daljem tekstu: “**Gastrans**”),

i1. **[•][[3]](#footnote-4)**, privrednog društva osnovanog u skladu sa zakonima [•][[4]](#footnote-5), sa sedištem na adresi [•][[5]](#footnote-6), matični broj: [•][[6]](#footnote-7), koga zastupa [•][[7]](#footnote-8) (u daljem tekstu: “**Učesnik**”),

 U daljem tekstu pojedinačno kao **’’Ugovorna strana’’** ili zajedno kao „**Ugovorne strane**”.***Preambula****Gastrans je, dana 05.03.2018. godine, objavio poziv za dostavljanje neobavezujućih ponuda za rezervaciju kapaciteta gasovoda čiju izgradnju razmatra.**Učesnik želi da učestuje u postupku pokrenutom od strane Gastransa iz prethodnog stava ove Preambule, iz kog razloga će uz registracionu prijavu dostaviti popunjen i potpisan ovaj Ugovor, kao i dokaz o plaćenoj naknadi za registraciju.* *Gastrans će po prijemu dokumenata iz prethodnog stava ove Preambule e-mailom potvrditi Učesniku takav prijem i dostaviti ovaj Ugovor potpisan od strane Gastransa, čime se smatra da je ovaj Ugovor zaključen. Nakon zaključenja ovog Ugovora, Gastrans će dostaviti Učesniku određena dokumenta, kako bi omogućio Učesniku da odluči da li da podnese neobavezujuću ponudu ili ne.**Stoga se Ugovorne strane saglašavaju kako sledi:***Predmet Ugovora****ČLAN 1.**Ovim Ugovorom Gastrans i Učesnik definišu postupanje od strane Učesnika i njegovih Predstavnika sa informacijama do kojih će Učesnik i njegovi Predstavnici doći na osnovu Dokumenata, njihovo čuvanje kao poverljivih, i prava Gastransa za slučaj kršenja obaveze čuvanja poverljivih podataka od strane Učesnika odnosno njegovih Predstavnika.**Definicije****ČLAN 2.**Prilikom zaključenja ovog Ugovora i za potrebe definisanja svojih međusobnih prava i obaveza koje nastaju iz ovog Ugovora, Ugovorne strane su odlučile da dodele sledeća značenja sledećim izrazima upotrebljenim u ovom Ugovoru, neu-tičući na značenja dodeljena onim izrazima koji su definisani drugde u ovom Ugovoru:«**Poverljive Informacije**» označavaju sve i bilo koje informacije i podatke koji se nalaze u Dokumentima, kao i bilo koja informacija (podatak) koju Gastrans saopšti Učesniku ili njegovim Predstavnicima usmenim ili pisanim putem (uključujući i e-mail) a koju Gastrans označi kao poverljivu ili koju, imajući u vidu okolnosti pod kojima mu se otkrivaju, Učesnik i njegovi Predstavnici treba da tretira/tretiraju kao poverljivu.«**Dokumena**» označava pravnu, finansijsku i tehničku dokumentaciju Društva koja će Učesniku/Predstavnicima postati dostupna nakon potpisivanja ovog Ugovora i to: (i) Dodatne Informacije o Projektu, (ii) Osnovni principi i uslovi koji se odnose na ugovor o transportu gasa i pravila rada Gastransa i (iii) HoT formular za komentare na Osnovne principe i uslove;«**Predstavnici**» označavaju akcionare, direktore, službenike, zaposlene, zastupnike, savetnike i druge predstavnike Učesnika, uključujući i sva druga lica Učesnika kojima će na osnovu ovog Ugovora biti omogućen uvid u Poverljive informacije.«**Treće Lice**» označava svako fizičko ili pravno lice koje nije Učesnik odnosno njegov Predstavnik.**Obaveze Učesnika****ČLAN 3.** Učesnik je obavezan da Poverljive Informacije čuva poverljivim, odnosno da: 1. drži u strogoj tajnosti svaku i sve Poverljive Informacije i da ne otkriva bilo koju Poverljivu Informaciju bilo kom Trećem Licu, osim u slučajevima koji su ovim Ugovorom izričito dozvoljeni, ili uz prethodnu pismenu saglasnost Gastransa;
2. koristi Poverljive Informacije samo i isključivo u cilju odlučivanja da li će podneti neobavezujuću ponudu;
3. obezbedi i zaštiti Poverljive Informacije i Dokumenta od neovlašćenog pristupa istima, njihovog menjanja, umnožavanja i drugog neovlašćenog korišćenja;
4. obezbedi da Poverljive Informacije saznaju samo oni Predstavnici koji po prirodi svog posla moraju biti upoznati sa Poverljivim Informacijama i Dokumentima kako bi mogli da odluče da li će Učesnik podneti neobavezujuću ponudu i odrede sadržinu neobavezujuće ponude;
5. obezbedi da Predstavnici preuzmu iste obaveze koje je Učesnik preuzeo ovim Ugovorom, pre nego što saznaju ma koju Poverljivu Informaciju odnosno izvrše uvid u Dokumenta.

**ČLAN 4.**Izuzetak od obaveza preuzetih ovim Ugovorom predstavlja pravo Učesnika da otkrije Poverljive Informacije ukoliko, i samo u onolikoj meri, u kojoj to nalaže zakon, propis, pravni postupak ili nadležni državni organi, pod uslovom da Učesnik dostavi prethodno pisano obaveštenje Gastransu o takvim uslovima i/ili zahtevima i preduzme sve pravno dozvoljene radnje da izbegne obavezu otkrivanja Poverljive Informacije.**ČLAN 5.**Učesnik će odmah po otkrivanju bilo kakve neovlašćene upotrebe ili otkrivanja Poverljivih Informacija, obavestiti o tome Gastrans i saradjivaće sa njim na svaki razuman način da se spreči dalje neovlašćeno korišćenje ili otkrivanje istih, kao i da se ublaže negativne posledice koje je neovlašćena upotreba odnosno otkrivanje Poverljive Informacije prouzrokovalo.**ČLAN 6**Ne postoji obaveza čuvanja Poverljivih Informacija poverljivim ukoliko:1. su već postale javne u vreme kada su otkrivene Učesniku;
2. postanu javne na drugi način, a ne kršenjem obaveza preuzetih ovim Ugovorom;
3. koje su saopštene Učesniku od strane Trećih Lica, koja, koliko je razumno poznato Učesniku, ne krše saopštavanjem Poverljive Informacije nikakvu obavezu poverljivosti prema Gastransu.

**Odgovornost****ČLAN 7**U slučaju povrede bilo koje od ugovornih obaveza iz ovog ugovora, Ugovorna strana koja je učinila povredu će biti odgovorna drugoj Ugovornoj strani za takvu povredu kako je predviđeno članom 8 ovog Ugovora.**Naknada štete****ČLAN 8.**Svaka Ugovorna strana ima pravo na naknadu stvarne štete u slučaju da druga Ugovorna strana prekrši bilo koju od obaveza predviđenih ovim Ugovorom. Radi izbegavanja sumnje, Ugovorne strane su saglasne da u slučaju da druga strana prekrši bilo koju svoju obavezu ni u kom slučaju neće imati pravo na naknadu izgubljene dobiti ili bilo koje drugo obeštećenje osim stvarne štete.**Obaveze nakon slanja ponude odnosno odustanka od učešća****ČLAN 9.**Nakon slanja ponude od strane Učesnika, odnosno nakon isteka roka za dostavljanje neobavezujućih ponuda, a po primljenom zahtevu Gastransa Učesnik se obavezuje da:1. vrati Gastransu sva Dokumenta, zajedno sa svim kopijama koje je eventualno napravio Učesnik odnosno njegovi Predstavnici;
2. izbriše sve Poverljive Informacije iz svakog kompjutera, hardvera ili sličnog uređaja u kome su iste unete u program ili sačuvane.

Vraćanje, brisanje ili na drugi način uništavanje bilo kojih Poverljivih Informacija ne oslobađa Učesnika kao ni njegove Predstavnike obaveze čuvanja poverljivosti predviđene ovim Ugovorom. **Trajanje obaveze čuvanja Poverljivih Informacija poverljivim****ČLAN 10.**Obaveze Učesnika preuzete ovim Ugovorom traju 3 (tri) godine računajući od dana zaključenja ovog Ugovora.**Merodavno pravo****Član 11.**Ovaj Ugovor sačinjen je u skladu i na njega će se primenjivati zakoni Republike Srbije isključujući odredbe o sukobu zakona u međunarodnom privatnom pravu.**Rešavanje sporova****ČLAN 12.**Bilo koji i svi ugovorni ili drugi sporovi u vezi sa ovim ugovorom, uključujući bez ograničenja bilo koje pitanje u vezi sa njegovim postojanjem, izvršenjem, povredom, važenjem ili raskidom kao i pre i post ugovornim efektima ovog ugovora (“Spor”) će biti razrešeni razgovorima između Ugovornih strana izvršenim u dobroj veri. U slučaju Spora, bilo koja Ugovorna strana može dostaviti pisano obaveštenje drugoj Ugovornoj strani (“Obaveštenje o Sporu”) predlažući da Ugovorne strane razreše Spor pregovorima.Ukoliko Spor ne bude razrešen u roku od 20 (dvadeset) Radnih Dana od prijema Obaveštenja o Sporu, takav Spor će na zahtev bilo koje Strane, biti dat na rešavanje i biti konačno razrešen od strane arbitraže organizovane u skladu sa Pravilnikom Beogradskog arbitražnog centra (Beogradska pravila). Sporove rešava jedan arbitar. Sedište arbitraže je u Beogradu. Jezik arbitražnog postupka je engleski.**Jezik i Primerci Ugovora****Član 13.**Ovaj Ugovor je sačinjen u 2 (slovima: dva) istovetna primerka, na srpskom i engleskom jeziku. U slučaju jezičke nesaglasnosti između ove dve verzije Ugovora, merodavna će biti verzija na srpskom jeziku.  |  | **NON-DISCLOSURE AGREEMENT**This Confidentiality Agreement (hereinafter referred as "**the Agreement**") is made and entered on [•][[8]](#footnote-9) 2018 into between the following parties: 1. **Gastrans društvo sa ograničenom odgovornošću Novi Sad**, a company incorporated under the laws of the Republic of Serbia, with its registered seat at the address 12 Narodnog Fronta Str., Novi Sad, company ID no. 20785683, represented by directors Dušan Bajatović and Alexander Syromyatin (hereinafter referred to as: “**Gastrans**”);

and1. **[•][[9]](#footnote-10)**,a company incorporated under the laws of the [•][[10]](#footnote-11), with its registered seat at the address [•][[11]](#footnote-12), company ID no. [•][[12]](#footnote-13), duly represented by [•][[13]](#footnote-14) (hereinafter referred to as: the “**Participant**”);

Hereinafter referred to also individually as the ‘’**Party’**’ and collectively as the "**Parties’’**.***Preamble****Gastrans has, on 5 March 2018, published the invitation for submitting the non-binding bids for capacity reservation in the natural gas pipeline the construction of which it is contemplating.**The Participant intends to participate in the procedure from the previous paragraph of this Preamble initiated by Gastrans, from which reason in shall deliver toghether with the registration form the populated and executed this Agreement, as well as the proof on paid registration fee.**Gastans shall, upon the receipt of the documents from the previous paragraph of this Preamble, confirm to the participant by e-mail such receipt and shall deliver this Agreement executed by Gastrans, by which action it will be considered that this Agreement is executed. Upon the execution of this Agreement, Gastrans shall deliver certain documents to the Participant, enabling the Participant to decide whether to provide the non-binding bid or not.**Therefore the Parties agree as follows:***Subject of the Agreement****ARTICLE 1.**By this Agreement Gastrans and the Participant are defining the treatment by the Participant and its Representatives of information which will be made available to the Participant and its Representatives from the Documents, treatment thereof as confidential, as well as rights of Gastranas in the case of breach of non-disclosure obligation by the Participant or its Representatives.**Definitions****ARTICLE 2.**When entering into this Agreement and for purpose of defining its mutual rights and obligations arising from this Agreement, the Parties decided to assign the following meanings to the following terms used in this Agreement, without effecting the meanings assigned to those terms that are defined elsewhere in this Agreement:«**Confidential Information**» means any and all information and data contained in the Documents, as well as any information (data) that is not publicly available, which is communicated by Gastrans to the Participant or its Representative either orally or in writing (including e-mail) and designated by Gastrans as confidential or which, having in mind the circumstances under which is disclosed, the Participant and its Representatives should treat as confidential.«**Documents**» means legal, financial and technical documents of the Company that will become available to the Participant/Representatives after execution of this Agreement, including: (i) (Additional Information on the Project, (ii) Heads of Terms relating to the Gas Transportation Agreement and the Gastrans Network Code and (iii) HoT Form for comments to the Heads of Terms.;«**Representatives**» mean the shareholders, directors, officers, employees, representatives, advisors and other representatives of the Participant including all other individuals on behalf of the Participant who may be presented with the Confidential Information on the basis of this Agreement.«**Third Party**» means every individual or legal entity that is not the Participant or its Representative.**Obligations of the Participant****ARTICLE 3**The Participant is obliged to keep the Confidential Information confidential, i.e. to: 1. keep strictly confidential each and every Confidential Information and not to disclose any Confidential Information to any Third Party, except in cases as expressly permitted by this Agreement or with the prior written approval of Gastrans;
2. use the Confidential Information only and explicitly for the purpose of deciding whether to submit the non-binding bid or not;
3. secure and protect the Confidential Information and Documents from unauthorized access, change, copying and from other unauthorized use.
4. ensure that the Confidential Information is communicated only to those Representatives that, having in mind their positions, must be acquainted with the Confidential Information and the Documents so that they are able to decide whether the Participant shall submit the non-binding bid or not, as well as to define the content of the non-binding bid;
5. ensure that the Representatives undertake the same obligations the Participant undertakes by this Agreement, before any of them become aware of the Confidential Information and/or Documents.

**ARTICLE 4**As an exception to the obligations in this Agreement represents the right of the Participant to disclose Confidential Information if, and only to the extent that is required by the law, regulation, legal process or competent state authorities, provided that the Participant shall provide written notification on such requirement(s) and/or request(s) to Gastrans and undertake all legally permitted actions to avoid disclosure of the Confidential Information.**ARTICLE 5**The Participant shall notify Gastrans immediately upon discovery of any unauthorized use or disclosure of the Confidential Information and will cooperate with it in every reasonable way to help preventing further unauthorized use or disclosure of the Confidential Information and to diminish the adverse effects caused by unauthorized use or disclosure of the Confidential Information.**ARTICLE 6**Non-disclosure obligation in respect to the Confidential Information is not applicable if:1. it has already became public at the time of disclosure thereof to the Participant;
2. become public other than by reason of a breach of the obligations undertaken by this Agreement;
3. is communicated to the Participant by the Third Party, who, as it is reasonably known to the Participant, does not breach by disclosing the Confidential Information any duty of confidentiality towards Gastrans.

**Liability****ARTICLE 7**In case of breach of any contractual obligation under this Agreement, the Party that caused the breach shall be liable to the other Party(s) for such breach as provided in Article 8 hereof. **Damages****ARTICLE 8**Each Party shall be entitled to actual damages in case that other Party breaches any of its obligations under this Agreement. For avoidance of doubts, the Parties in case that other Party breaches any of its obligations in any event shall not be entitled to lost profits or any other compensation but the actual damages.**Obligations following submission of the bid or decision not to participate****ARTICLE 9**Following submission of the bid or expiry of the deadline for submission of the non-binding bids and upon receipt of written request from Gastrans, the Participant is obliged to:1. return to Gastrans all Documents together with all copies thereof that were made by the Participant or its Representatives;
2. expunge all Confidential Information from any computer, hardware or similar device into which it was programmed or stored.

Return, deletion or any other way of destroying of any Confidential Information shall not release the Participant nor its Representatives from the non-disclosure duty stipulated under this Agreement.**Period of the obligation to keep the Confidential Information confidential****ARTICLE 10**The obligations of the Participant undertaken under this Agreement shall last for 3 (three) years as from the date of execution of this Agreement.**Applicable law****Article 11**This Agreement shall be governed by and construed in accordance with the laws of the Republic of Serbia excluding its conflict of law rules of private international law.**Dispute resolution****ARTICLE 12**Any and all contractual or other disputes or claims arising out of or in connection with this Agreement, including but not limited to any questions regarding its existence, performance, breach, validity or termination thereof as well as the pre- and post-contractual effects of this Agreement (the “Dispute”) shall be resolved by discussion between the Parties carried out in good faith. In the event of a Dispute, either Party shall serve a written notice upon the other Party (the “Dispute Notice”) proposing that the Parties seek to resolve the Dispute by negotiation.If a Dispute is not resolved within 20 (twenty) Business Days following the receipt of the Dispute Notice, such Dispute shall at the request of either Party, be referred to resolving and be finally resolved by arbitration organized in compliance with the Belgrade Arbitration Centre Rules (Belgrade Rules). The disputes shall be settled by one arbitrator. The seat of the arbitration shall be in Belgrade. The language of the arbitration proceedings shall be English.**Language and Counterparts****Article 13**This Agreement is made in 2 (in words: two) identical copies in Serbian and in English. In case of inconsistency between the two versions, the Serbian version will prevail. |

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| **GASTRANS d.o.o. Novi Sad****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****Dušan Bajatović, direktor**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Alexander Syromyatin, direktor****[•][[14]](#footnote-15)****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****[•][[15]](#footnote-16), [•][[16]](#footnote-17)** | **GASTRANS d.o.o. Novi Sad****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****Dušan Bajatović, director**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Alexander Syromyatin, director****[•][[17]](#footnote-18)****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****[•][[18]](#footnote-19), [•][[19]](#footnote-20)** |

1. Insert the full business name of the participant. Please delete this footnote before printing. [↑](#footnote-ref-2)
2. Unesite datum na koji ste potpisali NDA. Obrišite ovu fusnotu pre štampanja. [↑](#footnote-ref-3)
3. Unesite puno poslovno ime učesnika. Obrišite ovu fusnotu pre štampanja. [↑](#footnote-ref-4)
4. Unesite državu u kojoj je učesnik registrovan. Obrišite ovu fusnotu pre štampanja. [↑](#footnote-ref-5)
5. Unesite adresu registrovanog sedišta učesnika. Obrišite ovu fusnotu pre štampanja. [↑](#footnote-ref-6)
6. Unesite matični ili registarski broj učenika. Obrišite ovu fusnotu pre štampanja. [↑](#footnote-ref-7)
7. Unesite ime i prezime lica koje je ovlašćeno da potpiše ovaj NDA. Obrišite ovu fusnotu pre štampanja. [↑](#footnote-ref-8)
8. Insert the date on which you have executed the NDA. Please delete this footnote before printing. [↑](#footnote-ref-9)
9. Insert the full business name of the participant. Please delete this footnote before printing. [↑](#footnote-ref-10)
10. Insert the country in which the participant is registered. Please delete this footnote before printing. [↑](#footnote-ref-11)
11. Insert the address of the registered seat of the participant. Please delete this footnote before printing. [↑](#footnote-ref-12)
12. Insert the company ID or registration number of the participant. Please delete this footnote before printing. [↑](#footnote-ref-13)
13. Insert the full name of the person that is authorized to execute this NDA. Please delete this footnote before printing. [↑](#footnote-ref-14)
14. Unesite puno poslovno ime učesnika. Obrišite ovu fusnotu pre štampanja. [↑](#footnote-ref-15)
15. Unesite ime i prezime lica koje je ovlašćeno da potpiše ovaj NDA. Obrišite ovu fusnotu pre štampanja. [↑](#footnote-ref-16)
16. Unesite poziciju lica koje je ovlašćeno da potpiše ovaj NDA. Obrišite ovu fusnotu pre štampanja. [↑](#footnote-ref-17)
17. Insert the full business name of the participant. Please delete this footnote before printing. [↑](#footnote-ref-18)
18. Insert the full name of the person that is authorized to execute this NDA. Please delete this footnote before printing. [↑](#footnote-ref-19)
19. Insert the position of the person that is authorized to execute this NDA. Please delete this footnote before printing. [↑](#footnote-ref-20)