

# PROPERTY USE AGREEMENT FOR TEMPORARY LAND USE PURPOSES<sup>1</sup>

made on ..... in ..... between the following parties:

1. Mr./Ms.\*<sup>2</sup> ..... residing in ..... at ..... no. .... PESEL (National Identification Number) ..... hereinafter referred to as the **“Property Provider”**<sup>3</sup>, and

2. - ..... with its office in ....., registered in the National Court Register under number: ..... by ..... Regon (National Business Registry Number): ....., VAT no.: ....., hereinafter referred to as the **“Contractor”**, represented by<sup>4</sup>

.....

To the following effect:

## §1 [ Subject of the Agreement ]

1. The Property Provider declares that :
  - a) he/she has the following documented right: freehold\*), joint freehold\*), perpetual usufruct\*), property possession\*), to the plot with cadastral number....., cadastral district ....., Municipality of ....., located in ..... at ..... no. ...., hereinafter referred to as the “property or land”;
  - b) the a.m. property/plot is undeveloped\*/developed and used as agricultural land/urbanized land\*);
  - c) all components of the land/property to be made available as well as any assets and appurtenances appertaining to the property are specified in Appendix No. 1 to this Agreement<sup>5</sup>.
2. The Contractor declares that it is a contractor for the Works carried out under the Investment – THE ODRA-VISTULA FLOOD MANAGEMENT PROJECT – Component ....., Subcomponent ....., Contract ..... entitled ....., the Investor for which is ....., having its principal place of business in ....., and that the Works shall be carried out based on a valid administrative permit of the Governor of ..... *Investment Project Implementation Permit No.:* ..... dated ..... issued by.....

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<sup>1</sup> This document is a template agreed with the World Bank (No Objection) to be used under the OVFMP. Any modifications in the provisions of this sample agreement require the Investor’s approval.

<sup>2</sup> If it is a legal entity, not a natural person, enter such an entity’s identification data and its authorized representative in accordance with the relevant register (the Register of Businesses or the National Court Register).

<sup>3</sup> In the case of a joint freehold, **all** co-owners and their personal data should be entered and a representative of the co-owners should be formally appointed.

<sup>4</sup> The entity’s representation should comply with the relevant entries in the National Court Register.

<sup>5</sup> As regards para. 1 letter c, it should be done following the provisions of the Civil Code, in particular Art. 47 to 52.

3. The Contractor declares that the execution of the Works under the Contract requires temporary use of the property (or a part thereof), as described in para. 1 and Appendix No. 3, and any necessary land directly adjacent to the property. The property made available shall be used by the Contractor exclusively for the purpose of carrying out the works specified in para. 2.
4. The Property Provider agrees to the Contractor's temporary use of the property described in para. 1 for the needs of the implementation of the Contract.
5. The Contractor may assign the execution the Works in the property made available to the subcontractors included in the contract with the Investor, and the Property Provider shall be promptly notified thereof

### **§2 [ Time ]**

1. The land shall be used in the period from..... to .....
2. In justified cases, the period of property acquisition may be extended or shortened and the Property Provider shall be notified thereof with at least 14-day notice by submitting a relevant draft amendment to this Agreement.

### **§3 [ Remuneration ]<sup>6</sup>**

The parties agree monthly remuneration of ..... for making available the property during the time period specified in § 2 of this Agreement, which shall be paid upfront until the 10<sup>th</sup> of each month started by bank transfer from the Contractor's account to the Property Provider's bank account no. .... or in cash.

Remuneration for any incomplete month shall be reduced proportionally to the actual number of days on which the property is used in a given month.

### **§4 [ Handover and Takeover of the Land ]**

1. The Contractor shall be given possession of the property based on a land handover/takeover certificate. The signing of such a handover/takeover certificate shall be a necessary condition for commencing the works.
2. The Contractor declares that, for the needs of temporary use of the property, it has carried out an inventory of the land to be used before taking over the land, including any components and appurtenances as well as any assets located thereon. An inventory record, including any relevant photographic documentation, shall constitute Appendix No. 2 to this Agreement. The Contractor has included any reservations concerning the state of the assets in Appendix No. 1.
3. The used property shall be returned to the Property Provider by the Contractor based on a land return/takeover certificate. The Contractor shall inform the Property Provider, the Investor and the Contract Engineer about the proposed date for returning / taking over the land with at least 7-day notice and provide the possibility of participating in those activities.
4. The return of the property shall be conditional upon the following:
  - a. Restoration of the property and any necessary land directly adjacent to the property (such as, e.g., the state of the roads, fences, drainage ditches and any other

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<sup>6</sup> The parties may agree the method of remuneration payment as a one-off payment made before the commencement of the Works for the entire land use period. The parties may agree any other type of remuneration instead of cash remuneration (e.g. a barter transaction – temporary land use in exchange for a construction service).

- infrastructure affecting the quality of living of its residents) to the state before the commencement of the Works by the Contractor;
- b. If the property or any adjacent land cannot be restored to the state before the commencement of the Works, payment of cash compensation agreed with the Property Provider and corresponding to the value of damage incurred with respect thereto;
  - c. Full payment of total remuneration specified in § 3 of this Agreement;
  - d. Repair by the Contractor of any other damage made by the Contractor, caused by the Works carried out in the property or arising from them, in accordance with the applicable contract/task-specific Land Acquisition and Resettlement Action Plan (LA&RAP);
  - e. Signing of an agreed return/takeover certificate by the parties to this Agreement.
5. If the property made available is used/applied inconsistently with the intended purpose, the Property Provider may demand that the property be returned.

**§5 [ Liability and Insurance ]**

1. The Contractor shall be fully liable to the Property Provider and any third party for any damage made during the performance of the Works in the land made available.
2. The Contractor declares that it has exercised due diligence and special care in assessing the state of the property and any adjacent land which may or will be affected by the Works. The Contractor shall be solely responsible for the consequences of any negligence in this respect.
3. The Contractor shall maintain the following insurance coverage throughout the term of this Agreement:
  - i. construction all risk insurance – Insurance Policy No. .... issued on ..... by .....
  - ii. third party liability insurance – Insurance Policy No. .... issued on ..... by .....

and any damage made due to the Works, negligence, or the lack of due diligence may be paid from such insurance coverage.
4. The Contractor shall cover the value of any deductible franchise from its own funds.
5. In case of the occurrence of any damage caused by the Contractor’s activities due to the Works or in connection therewith, the Property Provider shall promptly, that is, not later than within 24 hours from the occurrence of such damage, notify separately the Contractor’s representative and the Investor or the Contract Engineer (phone and address data: .....).

**§6 [ Final Provisions ]**

1. This Agreement has been made in 4 counterparts, each of them being the original, one counterpart for either of the Parties and 1 counterpart for the Investor and 1 for the Contract Engineer.
2. In any matters not regulated in this Agreement, the following provisions shall apply:
  - the provisions of the Contract No. .... for the Works ..... made between the Investor and the Contractor;
  - provisions of the Civil Code.
3. Any modifications to this Agreement shall be made in writing, otherwise null and void.

**Appendices constituting an integral part of this Agreement:**

Appendix No. 1- List of components of and appurtenances to the property to be made available as well as any other assets located on the property.

Appendix No. 2 – Inventory Record, including photographic documentation.

Appendix No. 3 – Copy of a map with the marked property to be made available or any relevant part of that plot.

.....  
(date, Property Provider’s signature)

.....  
(date, Contractor’s signature)

\*) – delete, if not applicable