
**THE PLAN OF MERGER
BY ACQUISITION**

**Polski Koncern Naftowy ORLEN Spółka Akcyjna
registered office in Płock**

and

**LOTOS SPV 5 Spółka z ograniczoną odpowiedzialnością
registered office in Gdańsk**

Warsaw, 7 February 2023

This plan of merger by acquisition (Merger Plan) was agreed on 7 February 2023 by and between the management boards of the following companies:

1. Polski Koncern Naftowy ORLEN Spółka Akcyjna, registered office in Płock, ul. Chemików 7, 09-411 Płock, entered into the business register of the National Court Register under entry No. KRS 0000028860, registry court: District Court for Łódź-Śródmieście in Łódź, 20th Commercial Division of the National Court Register, Tax Id. No. 'NIP': 7740001454, Statistical No. 'REGON': 610188201, share capital of PLN 1,451,177,561.25 paid up in full, hereinafter "**PKN ORLEN**" or the "**Acquiring Company**"

and

2. LOTOS SPV 5 Spółka z ograniczoną odpowiedzialnością, registered office in Gdańsk, ul. Elbląska 135, 80-718 Gdańsk, entered into the business register of the National Court Register under entry No. KRS 0000896706, registry court: District Court Gdańsk – Północ in Gdańsk, 7th Commercial Division of the National Court Register, Tax Id. No. 'NIP': 8522672010, Statistical No. 'REGON': 388738788, share capital: PLN 3,800,000, hereinafter "**SPV5**" or the "**Target Company**"

The Acquiring Company and the Target Company are hereinafter referred to as the "**Merging Companies**".

RECITALS

- (A) *The Merging Companies intend to merge to optimize and streamline the ownership structure;*
- (B) *The Merging Companies intend to merge in compliance with Title IV Section I (Mergers of companies and partnerships) Chapter I (General provisions) and Chapter 2 (Mergers of companies) Article 498 et seq., in particular Article 516 of the Code of Commercial Companies Act of 15 September 2000 (consolidated text: OD. 2022.1467 as amended – "CCC"), in consequence of which:*
- i. The Target Company will be dissolved without being liquidated; and*
 - ii. All the assets and liabilities of the Target Company will be transferred to or acquired by the Acquiring Company under universal succession; and*
 - iii. The Acquiring Company will assume all rights and obligations of the Target Company;*
- (D) *The Merger Plan has been prepared jointly by the Management Boards of the Merging Companies.*

The Merging Companies agreed as it follows:

1. Legal form, business name and registered office of the Merging Companies – Article 499(1)(1) CCC

1.1 Acquiring Company:

Polski Koncern Naftowy ORLEN Spółka Akcyjna, registered office in Płock, ul. Chemików 7, 09-411 Płock, entered into the business register of the National Court Register under entry No. KRS 0000028860, registry court: District Court for Łódź–Śródmieście in Łódź, 20th Commercial Division of the National Court Register, Tax Id. No. 'NIP': 7740001454, Statistical Id. 'REGON': 610188201, share capital of PLN 1,451,177,561.25, paid-up in full.

The **Acquiring Company** is a public company within the meaning of the Act of 29 July 2005 on public offering, terms for the introduction of financial instruments to organised trading, and on public companies.

1.2 Target Company:

LOTOS SPV 5 Spółka z ograniczoną odpowiedzialnością, registered office in Gdańsk, ul. Elbląska 135, 80-718 Gdańsk, entered into the business register of the National Court Register under entry No. KRS 0000896706, registry court: District Court Gdańsk – Północ in Gdańsk, 7th Commercial Division of the National Court Register, Tax Id. No. 'NIP': 8522672010, Statistical Id. 'REGON': 388738788, share capital: PLN 3,800,000.

All the shares in the share capital of SPV5 were owned by the **Acquiring Company**.

2. The manner of merger between the Merging Companies and the legal basis for the merger – Article 499(1)(1) CCC

- 2.1. The merger of the Merging Companies will take place by transferring all the assets and liabilities of the Target Company to the Acquiring Company – as the sole shareholder in the Target Company – by way of universal succession, pursuant to the procedure laid down in Article 492(1)(1) CCC. ("**Merger**").
- 2.2. As a result of the Merger, the Target Company will be dissolved when deleted from the business register (Article 493(1) CCC). As from the Merger date, the Acquiring Company will assume all the rights and obligations of the Target Company (Article 494(1) CCC). As from the Merger date, all permits, licenses and exemptions awarded to the Target Company will be transferred to the Acquiring Company, unless an act of law or a decision granting the relevant permit, license or exemption provides otherwise (Article 494(2) CCC).
- 2.3. Since all the shares in the share capital of the Target Company are owned by the Acquiring Company, the Merger will take place following the streamlined procedure, pursuant to Article 516(6) CCC in conjunction with Article 516(1) and 516(5), i.e.:
 - 2.3.1 in compliance with Article 514(1) CCC the Merger will be carried out without increasing the share capital of the Acquiring Company;

- 2.3.2 pursuant to the first sentence of Article 516(1) CCC in conjunction with Article 516(6) CCC, a merger of companies consisting in the acquisition of a sole-member company may take place without a Merger resolution adopted by the shareholders meeting or the general meeting of the acquiring company, but this exemption does not apply to the Acquiring Company due to its public company status, and thus the Merger will take place with the adoption of the said resolution by the General Meeting of the Acquiring Company;
 - 2.3.3 pursuant to Article 516(5) CCC in conjunction with Article 516(6) CCC, no written reports of the management boards of the Merging Companies providing the rationale for the Merger, its legal basis and the economic reasons will be drafted;
 - 2.3.4 pursuant to Article 516(5) CCC in conjunction with Article 516(6) CCC, the Merger Plan will not be submitted to a register court-appointed auditor to be audited;
 - 2.3.5 pursuant to Article 516(6) CCC, the Merger Plan does not specify the ratio applicable to the swap of the shares in the Target Company for the shares in the Acquiring Company – Article 499(1)(2) CCC;
 - 2.3.6 pursuant to Article 516(6) CCC, the Merger Plan does not contain any rules on the allotment of shares in the Acquiring Company – Article 499(1)(3) CCC;
 - 2.3.7 pursuant to Article 516(6) CCC, the Merger Plan does not specify the date from which the shares of the Acquiring Company issued to the shareholders of the Target Company authorise them to the distribution of profits of the Acquiring Company – Article 499(1)(4) CCC.
- 2.4. The Merging Companies specify that, pursuant to Article 14(5) of the Competition and Consumer Protection Act of 16 February 2007, the Merger does not need to be notified to the President of the Competition and Consumer Protection Office, since the Merging Companies belong to the same corporate group, i.e. the PKN ORLEN corporate group, where the Target Company is a subsidiary of the Acquiring Company.

3. Rights vested by the Acquiring Company to the shareholders and persons holding special rights in the Target Company – Article 499(1)(5) CCC

The Acquiring Company does not and – in connection with the Merger – will not confer on the sole shareholder of SPV5 nor on any persons holding special rights in the Target Company any rights referred to in Article 499(1)(5) CCC.

4. Special benefits for the members of corporate bodies of the merging companies and other persons involved in the Merger – Article 499(1)(6) CCC

In connection with the Merger, none of the Merging Companies confers nor will confer any special benefits on any members of the corporate bodies of the Target Company or to any members of corporate bodies of the Acquiring Company nor on any other persons involved in the Merger.

5. Special provisions

5.1 The Merger is conditional on the fulfillment of legal requirements related to the status of assets of the Target Company. The foregoing does not constitute conditions precedent which make the effectiveness of the Merger *de iure* conditional upon their fulfillment; nevertheless, given the content of these requirements, they must be fulfilled before the Merger is registered.

5.2 As a result of the demerger of LOTOS Paliwa Spółka z ograniczoną odpowiedzialnością with its registered office in Gdańsk, KRS No. 0000006312 (made on 2 November 2022 by the transfer of some of its assets and liabilities constituting an organised part of an enterprise to SPV5 in line with the procedure laid down in Article 529(1)(4) CCC), the Target Company acquired:

a) farmland, defined in the Act on the structure of the agricultural system of 11 April 2003 (ASAS), namely:

1. ownership title to a property consisting of plots with registry Nos. 189/122, 192/122, 539/6, 186/122, 188/122, 630/122, with the total surface of 1.2530 ha, located in śląskie voivodeship, district of Racibórz, Racibórz commune, town of Racibórz, precincts of Studzienna and 0007 Racibórz, land and mortgage register No. GL1R/00023808/8;
2. 1/2 share in the ownership title to a property consisting of plots with registry Nos. 485/22 and 485/23, with the total surface of 1.3316 ha, located in pomorskie voivodeship, district of Gdańsk, Gdańsk commune, city of Gdańsk, precinct 0001, Osowa, land and mortgage register No.: GD1G/00076827/9;
3. ownership title to a property consisting of plots with registry Nos. 424 and 425/1, with the total surface of 0.8135 ha, located in pomorskie voivodeship, district of Pszczółki, Pszczółki commune, town of Pszczółki, land and mortgage register No.: GD1G/00114366/8;
4. ownership title to a property consisting of plots with registry Nos. 1232/1 and 1232/2, with the total surface of 1.1800 ha, located in podkarpackie voivodeship, district of Jarosław, Radymno commune, village of Skołoszów, land and mortgage register No.: PR1J/00051424/4;

b) perpetual usufruct right to a piece of land owned by the State Treasury, consisting of plots with registry Nos. 733 and 734, together with the ownership title to the buildings or devices erected on that land and constituting separate properties, for which the District Court in Gdynia keeps and land and mortgage register No. GD1Y/00052948/4 – property located within the limits of the maritime port in Gdynia within the meaning of Art 3 of the Act on maritime ports and harbours of 20 December 1996 (“AMPH”).

5.3 The foregoing circumstances affect the Merger process in the following way:

a) pursuant to Article 2b(2) and 2b(3) ASAS, the Acquiring Company should submit an application or applications to the Director General of the National Support

Centre for Agriculture to issue a decision approving the alienation of the properties specified in item 5.2.a) as the properties owned by the Target Company for a period shorter than 5 years or, alternatively, should obtain from that authority a document providing that no such decision is required;

b) pursuant to Article 3(1) and 3(2) AMPH, the Target Company should submit an application to the minister competent for the matters of maritime economy (currently the Minister of Infrastructure) to issue an administrative decision approving the alienation of the perpetual usufruct right to the property specified in item 5.2.b) or, alternatively, should obtain from that authority a document providing that no such decision is required.

5.4 Until the Director General of the National Support Centre for Agriculture and the Minister of Infrastructure issue the abovementioned decisions or other documents providing that no such decisions are required, the activities pertaining to Merger registration will not be performed.

6. Miscellaneous

6.1 Should any provision of the Merger Plan turn out to be invalid or unenforceable, this will be without prejudice to the validity or enforceability of the remaining provisions of the Merger Plan. An invalid or unenforceable provision will be replaced with a valid and enforceable provision reflecting to the broadest possible extent the objective and the original intent of the invalid or unenforceable provision. The same applies by analogy to any potential omissions in the Merger Plan.

6.2. In compliance with Article 499(2)(1), 499(2)(3), 499(2)(4) CCC in conjunction with Article 516(1) and 516(6) CCC, the following schedules have been appended to the Merger Plan:

1. Draft resolution of the General Meeting of PKN ORLEN on the Merger – **Schedule 1**,
2. Draft resolution of the Shareholders Meeting of SPV5 on the Merger – **Schedule 2**,
3. Information on the amendments to the PKN ORLEN statutes – **Schedule 3**,
4. Calculation of the value of assets and liabilities of the Target Company as at 1 January 2023 – **Schedule 4**,
5. The accounting statement of the Target Company made for the purpose of the Merger as at 1 January 2023 – **Schedule 5**.

6.3 Since the Merger will be carried out in compliance with Article 516(6) CCC, i.e. by the acquisition of the Target Company as a single-member company owned by the Acquiring Company, and thus without increasing the share capital, as regards the requirement laid down in Article 499(2)(2) CCC on the draft amendments to the statutes of the Acquiring Company appended to the Merger Plan, the Merging Companies explain that there will be no amendments made to the PKN ORLEN statutes in connection with the Merger.

- 6.6 As the Acquiring Company is listed in Article 13(1) of the Act on the principles applicable to the management of state assets of 16 December 2016, pursuant to Article 13(5) of that Act, its merger with another company requires approval of the Council of Ministers.
- 6.7 This Merger Plan has been drafted in four counterparts, two for each of the Merging Companies.

7. Signed on 7 February 2023

For Polski Koncern Naftowy ORLEN Spółka Akcyjna:

For LOTOS SPV 5 Spółka z ograniczoną odpowiedzialnością:

Schedule 1 to the Merger Plan

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**Resolution No. [•]
of the General Meeting
of Polski Koncern Naftowy ORLEN Spółka Akcyjna
registered office in Płock ("Company")
of [•] 2023**

on: the merger between the Company and LOTOS SPV 5 Spółka z ograniczoną odpowiedzialnością, registered office in Gdańsk, KRS No. 0000896706 ("SPV 5"), and the approval of the Merger Plan

Acting pursuant to Article 492(1)(1) and Article 506 of the Code of Commercial Companies and Sec. 7.7.5, 7.5.9 and 7.7.13 of the Company's Statutes, having analysed the plan of the merger between the Company and SPV 5 agreed on 7 February 2023 (the "**Merger Plan**") and schedules thereto, it is resolved as it follows:

§ 1

The General Meeting of the Company hereby approves:

- 1) the merger between the Company (Acquiring Company) and SPV 5 (Target Company) by transferring all the assets and liabilities of SPV 5 to the Company (the "**Merger**");
- 2) the Merger Plan, appended as Schedule ... hereto.

§ 2

The General Meeting of the Company resolves that the Merger will take place in a manner laid down in Article 516(6) in conjunction with Article 516(1) in conjunction with Article 514(1) CCC, i.e. without increasing the share capital of the Acquiring Company and without amendments to the statutes of the Acquiring Company, in compliance with the rules laid down in the Merger Plan.

§ 3

The resolution comes into effect on condition that the requirements laid down in clause 5 of the Merger Plan have been met, which should be construed as obtaining final decisions issued by the competent authorities, as specified in subclause 5.3 of the Merger Plan, or obtaining from these authorities other documents providing that no such decisions are required.

Schedule 2 to the Merger Plan

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**Resolution No. [•]
of the Shareholders Meeting
of LOTOS SPV 5 Spółka z ograniczoną odpowiedzialnością
registered office in Gdańsk (the “Company”)
of [•] 2023**

on: the merger between the Company and Polski Koncern Naftowy ORLEN Spółka Akcyjna, registered office in Płock, and approval for the Merger Plan

The Shareholders Meeting, acting pursuant to Article 492(1)(1) and Article 506(1) of the Code of Commercial Companies, having analysed the plan of the merger between the Company and PKN ORLEN S.A. agreed on 7 February 2023 (the “**Merger Plan**”) and schedules thereto, resolves as it follows:

§ 1

The Shareholders Meeting of the Company, at request of the Management Board laid down in Management Board’s resolution [●] of [●], hereby approves:

- 1) the merger between the Company (Target Company) and PKN ORLEN S.A.(Acquiring Company) by transferring all the assets and liabilities of the Company to PKN ORLEN S.A. (the “**Merger**”);
- 2) the Merger Plan, appended as Schedule ... hereto.

§ 2

The Shareholders Meeting of the Company resolves that the Merger will take place in a manner laid down in Article 516(6) in conjunction with Article 516(1) in conjunction with Article 514(1) CCC, i.e. without increasing the share capital of the Acquiring Company and without amendments to the statutes of the Acquiring Company, in compliance with the rules laid down in the Merger Plan.

§ 3

The resolution comes into effect on condition that the requirements laid down in clause 5 of the Merger Plan have been met, which should be construed as obtaining final decisions issued by the competent authorities, as specified in subclause 5.3 of the Merger Plan, or obtaining from these authorities other documents providing that no such decisions are required.

Schedule 3 to the Merger Plan

**Information on the amendments to the statutes
of Polski Koncern Naftowy ORLEN Spółka Akcyjna
registered office in Płock**

The Management Boards of the Merging Companies – given the special procedure applicable to the merger between LOTOS SPV 5 Spółka z ograniczoną odpowiedzialnością, registered office in Gdańsk, and Polski Koncern Naftowy ORLEN Spółka Akcyjna, registered office in Płock, conclude that no amendments to the Statutes of Polski Koncern Naftowy Orlen Spółka Akcyjna need to be made in connection with the Merger.

Schedule 4 to the Merger Plan

Calculation of the value of assets and liabilities of LOTOS SPV 5 sp. z o.o. as at 1 January 2023

Pursuant to Article 499(2)(3) CCC, the Management Board of LOTOS SPV 5 Sp. z o.o., registered office in Gdańsk (the "Company") declares as it follows:

Pursuant to Article 492(1)(1) CCC, in connection with the planned acquisition of the Company by Polski Koncern Naftowy ORLEN Spółka Akcyjna, registered office in Płock, entered into the business register of the National Court Register under No. KRS 0000028860, on the basis of the accounting books, the Management Board of the Company determined the following value of assets and liabilities of the Company as of 1 January 2023: **PLN 330,954,179.86** (three hundred and thirty million nine hundred and fifty four thousand one hundred and seventy nine point eighty six zlotys).

The value of the Company's assets and liabilities has been determined on the basis of the balance sheet of the Company as of 1 January 2023 as the value of net assets, i.e. total assets less liabilities and liability provisions. Relevant figures are provided in the enclosed accounting statement (schedule 5 to the Merger Plan). The calculation algorithm is given in the table below:

No.	Description	Value in PLN
A.	Total assets (I+II)	390,652,177.85
I	Fixed assets	311,638,737.52
II	Current assets	79,013,440.33
B.	Liabilities and liability provisions	59,697,997.99
C.	Net assets (A - B)	330,954,179.86

Warsaw, on 7 February 2023

for LOTOS SPV 5 Sp. z o.o.:

Schedule 5 to the Merger Plan

**Accounting statement
of LOTOS SPV 5 Spółka z ograniczoną odpowiedzialnością, registered office in Gdańsk
as at 1 January 2023**

Pursuant to Article 499(2)(4) CCC, the Management Board of LOTOS SPV 5 Sp. z o.o., registered office in Gdańsk (the "Company"), declares as it follows:

The following accounting statement reflects the balance sheet as of 1 January 2023, made applying the same methods and the same presentation format as the annual balance sheet, in compliance with the accounting principles applied by the Company:

	01/01/2023
ASSETS	
Fixed assets	311,638,737.52
Current assets	79,013,440.33
Total assets	390,652,177.85
LIABILITIES	
EQUITY	
Share capital	3,800,000.00
Retained profits	327,154,179.86
Total equity	330,954,179.86
LIABILITIES	
Long-term accounts payable	42,595,474.09
Short-term accounts payable	17,102,523.90
Total accounts payable	59,697,997.99
Total liabilities	390,652,177.85

This declaration has been drafted in compliance with the requirements set out in Article 499(3) CCC

Warsaw, on 7 February 2023

for LOTOS SPV 5 Sp. z o.o.:

