



THE BALTIC PIPE PROJECT

**ADDITIONAL GAZ-SYSTEM'S S.A. RULES
FOR THE OPEN SEASON 2017**

DRAFT FOR MARKET CONSULTATION

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The present document presents additional rules of the Gas Transmission Operator GAZ-SYSTEM S.A. (hereinafter referred to as "GAZ-SYSTEM S.A.") for the participation in the Open Season Procedure, organized by GAZ-SYSTEM S.A. and Energinet.dk for the allocation of capacity in the Baltic Pipe Project. The document constitutes Appendix 4 to the Open Season 2017 Rules, which set forth joint rules of both TSOs for the allocation of OS 2017 Capacity made available in the Open Season 2017.

1. DEFINITIONS

- 1.1. Unless otherwise regulated in the Open Season 2017 Rules, the capitalized terms in this document shall have the meaning set out below:
- 1.1.1. **"Bid"** shall mean Phase 1 Bid or Phase 2 Bid;
 - 1.1.2. **"Energy law"** shall mean the Energy law act of 10 April 1997 (consolidated text in the Journal of Laws No. 2012.1059, as amended), applicable in the Republic of Poland;
 - 1.1.3. **"ERO"** shall mean the Energy Regulatory Office;
 - 1.1.4. **"GAZ-SYSTEM's S.A. Rules"** shall mean the present document, setting forth GAZ-SYSTEM's S.A. additional rules for participation in the Open Season 2017;
 - 1.1.5. **"Non-Secured Credit Line"** shall mean credit line of the Participant, fixed by GAZ-SYSTEM S.A. for the Participant on the basis of the documents submitted by the Participant in order to determine the amount of the financial security;
 - 1.1.6. **"Polish OS 2017 Capacity Agreement"** shall mean conditional transmission service agreement for provision of gas transmission services at the IP Baltic Pipe and enabling the Participant to access the transmission network of GAZ-SYSTEM S.A., containing conditions precedent for the entry into force of the transmission obligation, concluded between a Participant and GAZ-SYSTEM S.A. as the result of the allocation of the Capacity within the Open Season 2017. The Polish OS 2017 Capacity Agreement shall take the form of a conditional capacity allocation and transmission ability allocation (PP/PZ), which shall constitute an annex to the framework transmission agreement;
 - 1.1.7. **"Polish system"** shall mean transmission system located in Poland, owned and operated by GAZ-SYSTEM S.A.;
 - 1.1.8. **"Tariff of GAZ-SYSTEM S.A."** shall mean Tariff established pursuant to the applicable provisions of law and posted on GAZ-SYSTEM's S.A. website. The GAZ-SYSTEM's S.A. Rules refer to the version of the Tariff from 1st of January 2016, as approved by the President of ERO (sign DRG-4212-59(8)/2015/6154/IX/JDo1), or to every next version of the Tariff of GAZ-SYSTEM S.A. which will replace or change the aforementioned version of the Tariff of GAZ-SYSTEM S.A.;
 - 1.1.9. **"TNC of GAZ –SYSTEM"** shall mean Transmission Network Code established pursuant to the applicable provisions of law and posted on the GAZ-SYSTEM's S.A. website. The GAZ-SYSTEM's S.A. Rules refer to version of the TNC of GAZ SYSTEM from 3rd February 2016,

as approved by the President of ERO (sign DRR-4322-2(18)/2015/2016/AN/MP) or to every next version of the TNC of GAZ- SYSTEM which will replace or change the aforementioned version of the TNC of GAZ-SYSTEM S.A.;

1.1.10. **"TSO"** shall mean transmission system operator, i.e. GAZ-SYSTEM S.A. or Energinet.dk.

2. LEGAL BASIS

- 2.1. In addition to the provisions of the Open Season 2017 Rules, the present document, as well the terms and conditions concerning the provision of the transmission services defined in the TNC of GAZ-SYSTEM S.A. and the Tariff of GAZ- SYSTEM, form the legal basis with regard to the Polish part of the Open Season 2017.
- 2.2. Submission of the Phase 1 Bid or Phase 2 Bid to GAZ-SYSTEM S.A. shall mean that the Participant accepts the provisions of the GAZ-SYSTEM's S.A. Rules, applicable TNC of GAZ-SYSTEM S.A., applicable Tariff of GAZ-SYSTEM S.A. and the Polish OS 2017 Capacity Agreement. Within the scope of the Polish part of the Open Season 2017, to all matters not regulated by the Open Season 2017 Rules, GAZ-SYSTEM's S.A. Rules or its Annexes, the provisions of the applicable versions of the TNC of GAZ-SYSTEM S.A. and the Tariff of GAZ-SYSTEM S.A. shall apply.
- 2.3. Subject to mandatory provisions of law, GAZ-SYSTEM S.A. cannot be held responsible for any misinterpretation or usage of data contained in this document.
- 2.4. Apart from the legal frame of the Open Season 2017, on the Polish side, the Open Season 2017 is based also on the provisions of point 7.1.13 of the TNC of GAZ-SYSTEM S.A..
- 2.5. The provisions of point 6.2 of the TNC of GAZ-SYSTEM S.A. shall not apply to the Open Season 2017.

3. REGISTRATION PROCEDURE

- 3.1. Within the deadline set forth in the Open Season 2017 Rules for the registration in Open Season 2017 Phase 1 or Phase 2, the entities interested in participation in the Open Season 2017 shall submit to GAZ-SYSTEM S.A. the documents necessary for registration as a Participant with GAZ-SYSTEM S.A., in writing, against a confirmation of receipt.
- 3.2. To register as a Participant with GAZ-SYSTEM S.A., the following documents should be submitted to GAZ-SYSTEM S.A. S.A.:
 - 3.2.1. Registration form, in line with the template which constitutes Appendix 4.C to the OS 2017 Rules;
 - 3.2.2. documents that confirm the legal form of business activity, including the original up to date excerpt from the appropriate court registry of the entity, issued in accordance with the principles of the country of entity's residence, not earlier than thirty (30) days before the submission of the Registration form;

- 3.2.3. if the Registration form is not signed by a statutory body of the entity in accordance with the foregoing document, a notarized (and apostilled, as the case may be) power of attorney (or similar evidence satisfactory to GAZ-SYSTEM S.A.) issued to the signatory and which contains an authority to sign the Registration form and all related documents on behalf of the entity,
 - 3.2.4. a document evidencing the equity capital of the entity, if this information cannot be deduced from the document referred to in point 3.2.2,
 - 3.2.5. documentation for evidencing all current ratings of the entity creditworthiness.
- 3.3. The entities who do not have a framework transmission agreement concluded with GAZ-SYSTEM S.A., along with the Registration form should submit to GAZ-SYSTEM S.A. the following documents and certificates or photocopies in the form of scans of originals as a true copy by a person authorized to represent the entity or solicitor or a lawyer:
- 3.3.1. power of attorney or other documents confirming the right of persons representing the entity to conclude on its behalf the framework transmission agreement with GAZ-SYSTEM S.A.,
 - 3.3.2. a document confirming the assignment of a tax identification number for tax purposes of goods and services to the entity established in European Union countries, if this information cannot be deduced from the document referred to in point 3.2.2,
 - 3.3.3. entity established in the Republic of Poland additionally submit certificate of REGON statistical number, if this information cannot be deduced from the document referred to in point 3.2.2,
 - 3.3.4. entity operating in the Republic of Poland has to submit the promise of concession, a copy of the license, the decision of the appointment as an operator or a statement signed by the person authorized to represent the entity that the operations carried out by the entity do not require a license provided by Energy Law,
 - 3.3.5. power of attorney for the people authorised to represent the entity in the procedure of concluding capacity allocation or ability allocation via the Information Exchange System,
 - 3.3.6. entity intending to take part in available capacity allocation procedure in the auction procedure may present a power of attorney for the individuals that will represent the entity in the course of the auction at the Auction Platform or other platform specified by the GAZ-SYSTEM S.A., in accordance with the form published on GAZ-SYSTEM's S.A. website.
- 3.4. All documents submitted to GAZ-SYSTEM S.A. in accordance with points 3.2 - 3.3 should be submitted in Polish. In case of translated documents the official sworn translation shall be provided.
- 3.5. GAZ-SYSTEM S.A. shall only register Participants who have a framework transmission contract concluded with GAZ-SYSTEM S.A.. Submission of the Registration form, together

with the required appendices, by the entity, who does not have a framework transmission contract concluded with GAZ-SYSTEM S.A., shall be equivalent to submitting an application for a conclusion of a framework transmission contract within the meaning of section 6.2.1 of the TNC of GAZ-SYSTEM S.A..

- 3.6. Within two (2) Business Days after obtaining the Registration form, GAZ-SYSTEM S.A. will determine whether a registration as a Participant for the Open Season 2017 is in compliance with the provisions of points 3.1 - 3.5. If the Registration form is not complete or correct, GAZ-SYSTEM S.A. shall request the entity to supplement or correct the Registration form within three (3) Business Days.
- 3.7. If the entity who submitted the Registration form does not have a framework transmission agreement concluded with GAZ-SYSTEM S.A., within one (1) Business Day after obtaining the complete and correct Registration form, GAZ-SYSTEM S.A. shall send to the entity a draft of the framework transmission contract in line with Appendix 4.D to the OS 2017 Rules. The entity shall return to GAZ-SYSTEM S.A. the unilaterally signed framework transmission contract within four (4) Business Days in writing, against a confirmation of receipt. GAZ-SYSTEM S.A. shall send the entity a signed transmission contract by recorded delivery post within five (5) Business Days of the date of delivery of the framework transmission contract that is signed by the entity.
- 3.8. If the entity fails to comply with any of the commitments specified in points 3.1 - 3.7, the registration of the entity shall be rejected.

4. OPEN SEASON 2017 PHASE 1

- 4.1. Submission of the Order to Proceed
 - 4.1.1. Within the Phase 1 Deadline, as determined in the Open Season 2017 Rules, the interested Participant can submit the Order to Proceed.
 - 4.1.2. The Participants that are interested in submitting the Order to Proceed should proceed as follows:
 - 4.1.2.1. Fill a form of Order to Proceed with the company details and Capacity request. Return the document (original) by registered post or courier duly signed by authorized person(s) to GAZ-SYSTEM S.A. on correspondence addresses listed in the Open Season 2017 Rules, not later than within the Phase 1 Deadline, as determined in the Open Season 2017 Rules. Advance copies by e-mail to: openseason@gaz-system.pl with subject matter "Open Season 2017". The Orders to Proceed received by GAZ-SYSTEM S.A. in writing after the Phase 1 Deadline, as determined in the Open Season 2017 Rules, will be rejected.
 - 4.1.2.2. If the Order to Proceed is not signed by a statutory body of the Participant or an authorised person, in accordance with the documents submitted during the registration procedure, a notarized (and apostilled, as the case may be) power of

attorney (or similar evidence satisfactory to GAZ-SYSTEM S.A.) issued to the signatory and which contains an authority to sign the Order to Proceed on behalf of the Participant shall be submitted.

- 4.1.3. For the avoidance of any doubt, only Order to Proceed submitted by means of template, which constitutes Appendix 1 to the Open Season 2017 Rules, accompanied by the relevant documents specified in point 4.1.2, shall be considered as valid.
 - 4.1.4. GAZ-SYSTEM S.A. shall reject the Order to Proceed if one of the following conditions occurs:
 - 4.1.4.1. it is submitted by an entity which has not registered as a Participant with GAZ-SYSTEM S.A.;
 - 4.1.4.2. it does not comply with the terms and conditions specified in the Open Season 2017 Rules or its appendices, in particular the requirements set forth in point 4.1.2 of the GAZ-SYSTEM's S.A. Rules;
 - 4.1.4.3. it was rejected by Energinet.dk, in line with the provisions of Appendix 3 to the Open Season 2017 Rules.
 - 4.1.5. The document submitted together with the Order to Proceed, described in point 4.1.2.2, shall be submitted to GAZ-SYSTEM S.A. in line with the provisions of point 3.4.
 - 4.1.6. The provisions of points 3.6 and 3.8 apply accordingly to the process of submission and acceptance of the Order to Proceed.
 - 4.1.7. Within the Phase 1 Deadline the Participant may alter or withdraw its Phase 1 Bid by submitting a new Order to Proceed in accordance with the provisions above. As every Participant may submit only one Phase 1 Bid, the new Order to Proceed will replace the older version hereof and the older version of the Phase 1 Bid will be disregarded. Thus, all Phase 1 Bids that the Participant wishes to place shall be stated in the new bidding form and the new bidding form must be completed in line with the provisions of the present point 4.1.
- 4.2. Evaluation of the Orders to Proceed submitted in Open Season 2017 Phase 1
- 4.2.1. Promptly from the Phase 1 Deadline, GAZ-SYSTEM S.A. will evaluate the Orders to Proceed submitted in Open Season 2017 Phase 1 and assess if the total amount of requested OS 2017 Capacity in the Orders to Proceed for the IP Baltic Pipe (understood as: (i) an entry to the Polish system in case of direction of the flow from Denmark to Poland, and (ii) an exit from the Polish system in case of direction of the flow from Poland to Denmark) is sufficient in order to continue the Baltic Pipe Project as the Fast Track Project.
 - 4.2.2. In the evaluation process GAZ-SYSTEM S.A. shall only take into account the Orders to Proceed accepted by GAZ-SYSTEM S.A. and Energinet.dk.
 - 4.2.3. The level of sufficiency shall be as follows:

4.2.3.1. [this part will be completed by GAZ-SYSTEM S.A. after obtaining the results of the Feasibility Study, at the latest in the final version of the GAZ-SYSTEM's S.A. Rules]

- 4.2.4. If the abovementioned level is reached, GAZ-SYSTEM S.A. shall assess that the total amount of OS 2017 Capacity requested in the Order to Proceed is sufficient for GAZ-SYSTEM S.A. to initiate the Fast Track Project. Nevertheless, the initiation of the Fast Track Project shall be subject to the result of the process of evaluation of Orders to Proceed conducted by Energinet.dk. and shall be announced by GAZ-SYSTEM S.A. and Energinet.dk.
- 4.2.5. If the Fast Track Project is not initiated by GAZ-SYSTEM S.A. and Energinet.dk, the Phase 1 Bids submitted to GAZ-SYSTEM S.A. shall expire. Moreover, GAZ-SYSTEM S.A. shall be entitled to undertake the actions set out in the OS 2017 Rules.

5. FINANCIAL SECURITY

- 5.1. Within the Open Season 2017, GAZ-SYSTEM S.A. shall demand from the Participants submitting Phase 2 Bid in the Open Season 2017 the financial security in line with the following provisions.
- 5.2. Following the receipt of the Registration form, GAZ-SYSTEM S.A. will determine the Non-Secured Credit Line of the Participant. The Non-Secured Credit Line shall be used to determine whether the Participant shall provide financial security in connection with its Phase 2 Bid, in line with point 6.1.2.1.
- 5.3. Within five (5) Business Days from the date of the approval of the Participant's registration, the Participant will be notified of the decision made by GAZ-SYSTEM S.A. regarding the size of the Non-Secured Credit Line of the Participant. The Non-Secured Credit Line will be determined as follows:
- 5.3.1. ten per cent (10%) of the Participant's equity capital, provided a credit rating of AAA or similar (highest rating from the relevant rating agency) was granted to Participant,
- 5.3.2. seven and a half per cent (7.5%) of the Participant's equity capital, provided a credit rating of AA or similar (second highest rating from the relevant rating agency) was granted to Participant,
- 5.3.3. five per cent (5%) of the Participant's equity capital, provided a credit rating of A or similar (third highest rating from the relevant rating agency) was granted to Participant,
- 5.3.4. two and a half per cent (2.5%) of the Participant's equity capital, provided a credit rating of BBB+ or similar (fourth highest rating from the relevant rating agency) was granted to Participant,
- 5.3.5. none for Participants with lower or no credit rating.
- 5.4. The Non-Secured Credit Line will be based upon GAZ-SYSTEM's S.A. free assessment of the

equity capital of the Participant as determined by GAZ-SYSTEM S.A. and the Participant's credit rating from Moody's, Standard & Poor's or Fitch as set forth above. In the event that the Participant has received ratings from more than one rating agency, the lowest rating will be used to determine the Non-Secured Credit Line.

- 5.5. In the event that the Participant's equity is comprised wholly or in part of financial instruments or intra-group debt or its credit situation seems otherwise uncertain, GAZ-SYSTEM S.A. shall adjust the Participant's equity capital for the purpose of verifying the Participant's creditworthiness.
- 5.6. The Participant is obliged to inform GAZ-SYSTEM S.A. of any new credit rating. Such new rating may cause GAZ-SYSTEM S.A. to revise the Non-Secured Credit Line.
- 5.7. In case the expected amount payable for OS 2017 Capacity during the Gas Year in which the Participant has requested the highest amount of OS 2017 Capacity exceeds the Participant's Non-Secured Credit Line, the Participant shall provide a security, in the amount determined in line with point 5.8, in the form of a bank guarantee submitted in line with point 5.9, or a cash collateral submitted in line with point 5.10.
- 5.8. The amount of the security to be provided by the Participant shall be equal to the difference between (i) the fee expected to be paid by the Participant for OS 2017 Capacity during the Gas Year for which the Participant has requested the highest amount of OS 2017 Capacity and (ii) the Participant's Non-Secured Credit Line. The fee for OS 2017 Capacity during shall be calculated on the basis of GAZ-SYSTEM's S.A. indicative transportation costs as announced by GAZ-SYSTEM S.A. within the Open Season 2017.
- 5.9. The security can be submitted in the form of an irrevocable, non-transferable and unconditional bank guarantee, payable upon the first demand of GAZ-SYSTEM S.A., issued, as appropriate, by a bank with a current rating obtained from a rating agency (the minimum acceptable level Baa2 for Moody's, BBB for Standard & Poor's, BBB for Fitch), which content was accepted by GAZ-SYSTEM S.A.. In the event that the relevant bank has received ratings from more than one rating agency, the lowest rating will apply. The bank guarantee shall be subject to the provisions of Polish law. If the guarantee has not been issued in the Polish language, it shall be submitted to GAZ-SYSTEM S.A. together with a sworn translation into Polish. The expiry date of the bank guarantee should fall two (2) months after the end of the sixth Gas Year in which the Participant would like to use the transmission services of GAZ-SYSTEM S.A. in the IP Baltic Pipe. GAZ-SYSTEM S.A. may accept a financial security for the minimum term of one Gas Year, provided that such security is renewed within fourteen (14) days prior to the expiry of its validity.
- 5.10. If the security is submitted in cash, it has to be deposited in PLN to the following GAZ-SYSTEM S.A. bank account No. 94114019770000580301001031 and has to be entitled as „Open Season 2017.”

- 5.11. Phase 2 Bids submitted without a proper financial security shall not be subject to analysis within the framework of the Open Season 2017.
- 5.12. GAZ-SYSTEM S.A. shall be entitled to use the security (cash collateral or bank guarantee) in the following situations:
 - 5.12.1.1. as a deduction against liquidated damages which the Participant is obliged to pay in line with the provisions of point 6.1.7; or
 - 5.12.1.2. if the Participant fails to conclude a Polish OS 2017 Capacity Agreement, in accordance with point 6.3.5,
 - 5.12.1.3. in line with the provisions of the Polish OS 2017 Capacity Agreement.
- 5.12.2. The security for the conclusion of the Polish OS 2017 Capacity Agreement shall be refunded within 14 (fourteen) days in the following cases:
 - 5.12.2.1. GAZ-SYSTEM S.A. terminates the Open Season 2017 without conclusion of the Polish OS 2017 Capacity Agreement,
 - 5.12.2.2. as a result of the Open Season 2017 no OS 2017 Capacity was allocated to the Participant,
 - 5.12.2.3. in line with the provisions of the Polish OS 2017 Capacity Agreement.
- 5.13. The detailed provisions concerning the obligations related to ensuring the financial security after the conclusion of the Polish OS 2017 Capacity Agreement are included in the Polish OS 2017 Capacity Agreement.

6. OPEN SEASON 2017 PHASE 2

- 6.1. Submission of the Phase 2 Bid
 - 6.1.1. The Participants that are interested in participating in the Open Season 2017 Phase 2 should fill a form of Phase 2 Bid with the company details and OS 2017 Capacity request. Return the document (original) by registered post or courier duly signed by authorized person(s) to GAZ-SYSTEM S.A. correspondence addresses listed in the Open Season 2017 Rules, not later than within the Phase 2 Deadline, as determined in the Open Season 2017 Rules. Advance copies by e-mail to: openseason@gaz-system.pl with subject matter "Open Season 2017". The Phase 2 Bids received by Energinet.dk or GAZ-SYSTEM S.A. in writing after 16:00 CEST Phase 2 Deadline, as determined in the Open Season 2017 Rules will be rejected.
 - 6.1.2. Subject to the provisions of point 6.1.3, the Phase 2 Bid should be accompanied by:
 - 6.1.2.1. a proof of submitting a financial security in line with point 5, if necessary;
 - 6.1.2.2. if the Phase 2 Bid is not signed by a statutory body of the Participant or an authorised person, in accordance with the documents submitted during the registration procedure, a notarized (and apostilled, as the case may be) power of attorney (or similar evidence satisfactory to GAZ-SYSTEM S.A.) issued to the

signatory and which contains an authority to sign the Phase 2 Bid on behalf of the Participant shall be submitted.

- 6.1.3. In case of Participants who's Phase 1 Bids were accepted by GAZ-SYSTEM S.A. if the Fast Track Project was initiated, the Phase 2 Bid shall be accompanied by a proof of financial security only if the Phase 2 Bid covers more OS 2017 Capacity than the Phase 1 Bid.
- 6.1.4. For the avoidance of any doubt, only Phase 2 Bids submitted by means of template, which constitutes Appendix 2 to the Open Season 2017 Rules, accompanied by the relevant documents specified in point 6.1.2, shall be considered as valid
- 6.1.5. The Phase 2 Bids and accompanying documents, if relevant, shall be submitted in accordance with the provisions of point 3.4.
- 6.1.6. The provisions of points 4.1.1, 4.1.7 and points 3.6 and 3.8 apply accordingly to the process of submission and acceptance of the Phase 2 Bids.
- 6.1.7. GAZ-SYSTEM S.A. shall reject the Phase 2 Bid if one of the following conditions occurs:
- 6.1.7.1. it is submitted by an entity which has not registered as a Participant with GAZ-SYSTEM S.A.;
 - 6.1.7.2. it does not comply with the terms and conditions specified in the Open Season 2017 Rules or its appendices, in particular the requirements set forth in point 6.1.2 - 6.1.6 of the GAZ-SYSTEM's S.A. Rules;
 - 6.1.7.3. it was rejected by Energinet.dk, in line with the provisions of Appendix 3 to the Open Season 2017 Rules.
- 6.1.8. If both TSOs announce that the level of the Orders to Proceed submitted and accepted in the Open Season Phase 1 sufficient for the initiation of the Fast Track Project, than the Participant who does not submit a Phase 2 Bid including the amount of OS 2017 Capacity at least equal to the amount included in the Phase 1 Bid, shall be liable to pay the liquidated damages to GAZ-SYSTEM S.A. in the amount of mln PLN *[this part will be completed by GAZ-SYSTEM S.A. after obtaining the results of the Feasibility Study, at the latest in the final version of the GAZ-SYSTEM's S.A. Rules]*.
- 6.2. The allocation of OS 2017 Capacity shall be done by GAZ-SYSTEM S.A. in line with the provisions of the Open Season 2017 Rules, to the Phase 2 Bids accepted by GAZ-SYSTEM S.A. and Energinet.dk.
- 6.3. Contracting
- 6.3.1. The allocation of OS 2017 Capacity by GAZ-SYSTEM S.A., conducted in line with the Open Season 2017 Rules, shall be subject to the results of internal procedures of GAZ-SYSTEM S.A., as stipulated below, which shall be conducted with full respect for third party access to the transmission network stipulated in Energy Law and rules of transmission capacity allocation resulting from the Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas

transmission networks and repealing Regulation No 1775/2005/EC, in particular for rule of Participants' equal treatment. The internal procedures shall be as follows:

- 6.3.1.1. economic test, which will be conducted by GAZ-SYSTEM S.A. to assess whether the Baltic Pipe Project is economically viable and feasible, in line with the provisions of point 6.3.2. The economic test will take into account the amount of OS 2017 Capacity allocated to the Participants; and
- 6.3.1.2. internal procedure for obtaining corporate approvals for conclusion of the Polish OS 2017 Capacity Agreement, which object will be the transmission of gas, with the Participants to whom, as a result of the Open Season 2017 Phase 2, OS 2017 Capacity was allocated.

The internal procedures shall be conducted within the deadlines allowing for the conclusion of the Polish OS 2017 Capacity Agreement in line with the overall timeframe determined in the OS 2017 Rules.

6.3.2. Economic test

- 6.3.2.1. The economic test will be conducted by GAZ-SYSTEM S.A. in line with the following formula: *[this part will be completed by GAZ-SYSTEM S.A. after obtaining the results of the Feasibility Study, in cooperation with the President of ERO and in line with the binding regulations of law, at the latest in the final version of GAZ-SYSTEM's S.A. Rules].*
- 6.3.3. GAZ-SYSTEM S.A. shall inform the Participants about the results of the internal procedures conducted in line with point 6.3.1 and either confirm the allocation of OS 2017 Capacity to the relevant Participants, subject to the provisions of Open Season 2017 Rules, or inform the Participants about the cancellation of the Open Season 2017, in line with the provisions of point 6.3.4.
- 6.3.4. If on the basis of the economic test, GAZ-SYSTEM S.A. or Energinet.dk shall assess that the Baltic Pipe Project is not feasible and financially and socio-economically viable, or as a result of the internal procedure determined in point 6.3.1.2 the necessary approvals are not granted, no OS 2017 Capacity will be allocated to the Participants by GAZ-SYSTEM S.A. and the Open Season 2017 shall be cancelled. In such case, the Participants will be no longer bound by their Bids towards GAZ-SYSTEM S.A. and GAZ-SYSTEM S.A. will not be obliged to allocate the OS 2017 Capacities to the Participants.
- 6.3.5. Together with the confirmation of the allocation of OS 2017 Capacity, in accordance with point 6.3.3, GAZ-SYSTEM S.A. shall send to the Participants, to whom the OS 2017 Capacities were allocated, drafts of Polish OS 2017 Capacity Agreement. Each Participant shall be obliged to submit to GAZ-SYSTEM S.A. a signed draft of the Polish OS 2017 Capacity Agreement, in line with Appendix 4.E, within ten (10) Business Days of the delivery date of such draft. GAZ-SYSTEM S.A. shall send to the Participant a signed Polish OS 2017 Capacity Agreement within ten (10) Business Days of the date of delivery of the draft of the Polish OS 2017 Capacity Agreement signed by the Participant. Terms indicated in this point are regarded as kept, if before their expiry the draft of Polish OS

2017 Capacity Agreement or Polish OS 2017 Capacity Agreement will be sent by registered mail at the post office or courier, with acknowledgment of receipt.

7. TARIFFS

- 7.1. The tariff system in Poland is currently based on the provisions of the Energy Law of 10 April 1997 and the Ordinance of the Minister of Economy of 28th June 2013 on the detailed principles of setting and calculation of tariffs and the principles of settlement in trading in gas.
- 7.2. GAZ-SYSTEM S.A. shall collect the fees for the performance of gas transmission services rendered under the Transmission Contracts concluded as a result of the Open Season 2017 according to the Tariff of GAZ-SYSTEM S.A. and the TNC of GAZ-SYSTEM S.A. applicable at a given time according to the decision of the President of ERO.
- 7.3. The Participant is made expressly aware of the fact that the final tariffs rates for OS 2017 Capacity will not be determined until the OS 2017 Capacity is made available to the Participant, in line with the Polish OS 2017 Capacity Agreement.
- 7.4. During OS 2017, GAZ-SYSTEM S.A. plans to publish non-binding information package/-s, in line with the deadlines determined in the OS 2017 Rules, containing indicative transportation costs.
- 7.5. The information package/-s aim at sharing non-binding information with the Participants to support decision-making and will allow for a more thorough analysis of transportation costs, construction costs and risk on different parties to the transmission system.
- 7.6. The data provided by GAZ-SYSTEM S.A. in the information packages published during the Open Season 2017 should be used only as preliminary signals to the market users. GAZ-SYSTEM S.A. maintains the right to design and publish tariffs independently from the figures stated in the information packages.

8. GOVERNING LAW, DISPUTE RESOLUTION

- 8.1. All matters between GAZ-SYSTEM S.A. and Participant arisen pursuant to the Open Season 2017 Rules shall be governed by the laws of the Republic of Poland. To any issues not regulated in the Open Season 2017 Rules, the provisions of the TNC of GAZ-SYSTEM S.A. or Tariff of GAZ-SYSTEM S.A. apply. Any dispute arising from or related to these GAZ-SYSTEM's S.A. Rules and related to GAZ-SYSTEM S.A. shall be settled by the Court of Arbitration of the Polish Chamber of Commerce in accordance with its internal rules and regulations. The place of arbitration shall be Warsaw; its language shall be the Polish language. The number of arbitrators shall be three (3). The resolution of the Court of Arbitration of the Polish Chamber of Commerce shall be final and enforceable.

9. OTHER PROVISIONS

- 9.1. Subject to mandatory provisions of law, cancellation by GAZ-SYSTEM S.A. and Energinet.dk of the Open Season 2017 in the situation referred to in point 6.3.1 shall not create any liability of GAZ-SYSTEM S.A. and shall not entitle the Participants to claim against the GAZ-SYSTEM S.A. for damages or to seek another form of legal compensation for failure to conclude the Transmission Contracts.
- 9.2. Any expenses incurred by the Participant in connection with its participation in the Open Season 2017 shall be borne by the Participant and shall not be asserted against GAZ-SYSTEM S.A..
- 9.3. Anytime the present GAZ-SYSTEM's S.A. Rules refer to the delivery of documents or information by e-mail, such a document or information is deemed to be delivered upon it is input to the means of electronic communication in such a manner so that a recipient is able to get familiar with the content thereof.
- 9.4. GAZ-SYSTEM S.A. represents that it shall be liable for transmission services and proper functioning of the Polish system. GAZ-SYSTEM S.A. shall not be liable for the infrastructure which is not owned by it.
- 9.5. These GAZ-SYSTEM's S.A. Rules do not constitute an offer to the Participants within the meaning of article 66 § 1 of the Civil Code of the Republic of Poland (Journal of Laws from 1964 No16 item. 93 as amended).
- 9.6. Neither the Participant, nor GAZ-SYSTEM S.A., shall be liable towards each other for the loss suffered due to the Open Season 2017 unless the party suffered loss due to willful misconduct of the other party.
- 9.7. GAZ-SYSTEM S.A., in agreement with Energinet.dk, may invalidate the Open Season 2017 for serious reasons at any time. GAZ-SYSTEM S.A. shall inform Participants, and the President of ERO about the cancellation of the Open Season 2017 and specify reasons for such invalidation and, if applicable, an expected date on which the Open Season 2017 may be repeated.
- 9.8. GAZ-SYSTEM S.A. reserves the right to amend or supplement the Open Season 2017 Rules before the Phase 2 Deadline, in particular due to the results of the Open Season 2017 Phase 1, in line with the OS 2017 Rules, or in the case of changes in legal regulations, a need to obtain, unforeseen in the Open Season 2017 Rules, administrative approvals or decisions from competent authorities, including regulators. Such amendments and supplements will be published on the website of GAZ-SYSTEM S.A., subject to a prior obtainment of the approval of competent authorities, if necessary.
- 9.9. Any new version of, or amendments to, the TNC of GAZ-SYSTEM S.A. or Tariff of GAZ-SYSTEM S.A., approved by the President of ERO, does not constitute a change of the Open

Season 2017 Rules and enters into force according to the date stipulated in a given document.

9.10. The following appendices form an integral part of this GAZ-SYSTEM's S.A. Rules:

- 9.10.1. Appendix 4.A - TNC of GAZ-SYSTEM S.A.,
- 9.10.2. Appendix 4.B - Tariff of GAZ-SYSTEM S.A.,
- 9.10.3. Appendix 4.C - Registration form,
- 9.10.4. Appendix 4.D – Framework transmission contract,
- 9.10.5. Appendix 4.E – Polish OS 2017 Capacity Agreement.

DRAFT FOR MARKET CONSULTATION