

# **FSRU II OPEN SEASON**

-

# **GENERAL IMPLEMENTATION CONDITIONS**

This document titled FSRU II Open Season – General Implementation Conditions (hereinafter referred to as the "**General Implementation Conditions**") sets out the principles applicable to FSRU II Open Season Procedure to be carried out by Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. (hereinafter: "**GAZ-SYSTEM S.A.**" or the "**Operator**") concerning the provision of Regasification Services<sub>FSRU</sub> at the planned Terminal<sub>FSRU</sub>.

These General Implementation Conditions are divided into three parts:

**Part I:** Introduction

**Part II:** Placing offers and Binding Allocation

**Part III:** General provisions

Part I of the General Implementation Conditions provides a general introduction to the FSRU II Open Season procedure carried out by GAZ-SYSTEM S.A. With the exception of definitions, this section is presented for information purposes only.

Part II of the General Implementation Conditions contains a detailed description of the FSRU II Open Season procedure. It includes a description of placing the offers under FSRU II Open Season Procedure and the allocation mechanism.

Part III of the General Implementation Conditions presents the general provisions, in particular the provisions concerning the communication between the Participants and GAZ-SYSTEM S.A.

In addition, the following documents are enclosed as appendices to these General Implementation Conditions and form an integral part thereof:

## **Appendices**

Appendix 1: Registration Form (template)

Appendix 2: Offer Form (template)

Appendix 3: Draft Regasification<sub>FSRU</sub> Agreement and Regasification<sub>FSRU</sub> Order

Appendix 4: Bank guarantee (template)

Appendix 5: Terminal<sub>FSRU</sub> Code

Appendix 6: Tariff calculator

Appendix 7: GDPR clause

## **Part I – Introduction**

### **1. GENERAL INFORMATION**

The project is aimed at the development of the second Floating Storage Regasification Unit (FSRU) in the Gdansk area in direct proximity of the FSRU I covered by Open Season procedure, with the capabilities required for LNG unloading, in-process storage and regasification. The Terminal<sub>FSRU</sub>, to the extent covered by FSRU II Open Season procedure, is to be designed to carry out regasification processes at the level of 4.5 bcm of gaseous fuel per year and in consideration of the capacity of both FSRUs – 10,6 bcm. The commissioning and start of operation of the Terminal<sub>FSRU</sub> in the Gulf of Gdansk, to the extent covered by FSRU II Open Season procedure, are planned for 2028.

The implementation of the project to build a new Terminal<sub>FSRU</sub> in the Gdansk area fits into the framework of both Polish and European policy to secure access to natural gas. It is an element of many strategies

and policies<sup>1</sup> in the area of ensuring security of gas supply, as well as a response to the constantly growing demand for natural gas in Poland and Central and Eastern Europe. The project is one of initiatives geared towards ensuring energy security and is part of the process of the country's energy and economic transformation in transition to less emission-intensive energy sources. According to the Energy Policy of Poland until 2040, the project is one strategic undertakings as regards ensuring Poland's strong position on the European natural gas market by achieving a zero-emission energy system (Pillar II),

In 2021, the Terminal<sub>FSRU</sub> was included by the European Commission in the 5th list of projects of common interest (PCI).

GAZ-SYSTEM S.A. is taking measures aimed, among other things, at offering the regasification capacity of the new Terminal<sub>FSRU</sub> and its integration with the National Transmission System through a newly created Exit Point. GAZ-SYSTEM S.A. is also conducting an open season procedure covering the construction of a Floating Storage Regasification Unit (FSRU) in the Gdańsk area ("Open Season FSRU I") including but not limited to establishing the location in the Gdańsk area for a Floating Storage Regasification Unit (FSRU) capable of offloading LNG, in-process storage and regasification of LNG, with the regasification process capacity at the level of 6.1 bcma, including the infrastructure e.g. the Breakwater and the Unloading Platform. Within Open Season FSRU II Procedure, it is planned to make available the second FSRU adapted to conduct the regasification process at the level of 4.5 billion of gaseous fuel per year. The detailed parameters of the planned Terminal<sub>FSRU</sub> to the extent covered by FSRU II Open Season Procedure are presented in Section 6 below.

## **2. ABOUT GAZ-SYSTEM S.A.**

GAZ-SYSTEM S.A. is the owner and operator of the National Transmission System and the Lech Kaczyński LNG Terminal in Świnoujście.

As the operator of the National Transmission System, GAZ-SYSTEM S.A. is responsible for transporting gas via the transmission network in Poland, supplying gas to the distribution network and to final customers connected to the transmission system. The national transmission system also enables gas transmission to/from connected storage facilities and transmission systems in neighbouring countries.

On 6 December 2018, the President of the Energy Regulatory Office issued a decision according to which GAZ-SYSTEM S.A. was granted the status of the operator of the National Transmission System, comprising on the territory of Poland until 6 December 2068.

As the operator of the Lech Kaczyński LNG Terminal in Świnoujście, acting on the basis of a natural gas liquefaction and re-gasification license in LNG facilities located in Świnoujście, as well as on the decision on designation as the operator of the natural gas liquefaction system effective until 31 December 2030, GAZ-SYSTEM S.A. is proceeding with its expansion increase the Terminal's annual regasification capacity from 5 bcm to 8.3 bcm of natural gas.

## **3. LEGAL BASIS FOR THE PROCEDURE**

3.1 The Procedure is conducted under the provisions of Article 32 of Directive 2009/73/EC of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ EU. L. of 2009, No. 211, item 94 as amended), Article 15(1) and Article 17(1) and 17(2) of 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 (EC) No. 1775/2005 (OJ EU.L. of 2009, No. 211, item 36 as amended) and the provisions of the Polish Energy Law.

---

<sup>1</sup> See Energy Policy of Poland until 2040 (MP of 2021, item 264).

#### 4. DOCUMENTS GOVERNING THE FSRU II OPEN SEASON

- 4.1 This document, including its appendices, governs the FSRU II Open Season procedure. By submitting an Offer to GAZ-SYSTEM S.A. under this Procedure, the Participant confirms that it accepts the provisions of the General Implementation Conditions and their appendices.
- 4.2 Subject to applicable laws, GAZ-SYSTEM S.A. shall not be held liable for any incorrect interpretation or use of the information contained in this document.
- 4.3 All capitalised terms used in these General Implementation Conditions, unless otherwise defined herein, shall have the meaning given to them in the FSRU Code.

#### 5. DEFINITIONS

<b>Business Day</b>	a day other than a public holiday as defined in the Non-Working Days Act;
<b>Breakwater</b>	a structure providing protection to the Unloading Platform and moored FSRUs and LNGCs from adverse effects hydro-meteorological conditions, and enabling high availability of the Terminal <sub>FSRU</sub> implemented under the FSRU I Open Season procedure;
<b>Registration Form</b>	the form referred to in point 8.1.1;
<b>Schedule</b>	the schedule for the Procedure as set out in Section 7;
<b>Information on the allocation of the Regasification Services<sub>FSRU</sub></b>	the information referred to in point 5;
<b>Terminal<sub>FSRU</sub> Code</b>	FSRU Terminal operation and maintenance instructions - FSRU Terminal Code for the Liquefied Natural Gas facility moored in the Port of Gdańsk, i.e. the FSRU Terminal operation and maintenance instructions for the Liquefied Natural Gas facility moored in the Port of Gdańsk (FSRU Terminal), drawn up by the Operator, stipulating the rules of use of the Terminal <sub>FSRU</sub> by all Terminal Users <sub>FSRU</sub> ;
<b>Investment Undertaking</b>	the undertaking the scope of which covers the activities and works indicated in point 6.1.1;
<b>TNC</b>	the Transmission Network Code for the Transmission System applied by GAZ-SYSTEM S.A. as the Transmission System Operator (TSO);
<b>National Transmission System</b>	the transmission system together the interconnected equipment and facilities operated by GAZ-SYSTEM S.A.
<b>LNG</b>	liquefied natural gas - a liquid product consisting mainly of methane, obtained from natural gas by cooling it to a temperature of approx. - 159°C, with quality parameters specified in accordance with the FSRU Terminal Code;
<b>Contracted Capacity</b>	the maximum quantity of Gaseous Fuel conforming to the quality specifications set out in the TNC under Normal Conditions, which can be offtaken at the Exit Point during one hour;
<b>Offer</b>	the Offer referred to in Section 9;
<b>General Implementation Conditions</b>	the terms and conditions of the FSRU II Open Season, i.e. this document;
<b>Final Investment Decision</b>	the decision to start the execution phase of the Investment Project, as referred to in point 12.3;

<b>Gaseous Fuel</b>	high-methane natural gas processed as a result of LNG regasification, with quality parameters specified in the Transmission Network Code;
<b>Unloading Platform</b>	hydroengineering infrastructure in the Port of Gdańsk, where the FSRU(s) is/are moored with associated systems and facilities, in particular dolphins, fenders, hooks, technical lighting, navigation equipment and Pilot Navigation and Docking System (PNDS), excluding the technological infrastructure for the transmission of Gaseous Fuel being a part of the National Transmission System.
<b>Energy Law Act Procedure/FSRU II Open Season</b>	Energy Law Act of 10 April 1997 (Dz.U.2022.1385, as amended), a procedure for the execution of the Regasification Agreement <sub>FSRU</sub> and Regasification Order <sub>FSRU</sub> in connection with the engineering and development of the Investment Project, as described in the General Implementation Conditions;
<b>Exit Point</b>	the place of the off-take of the Gaseous Fuel from the Terminal <sub>FSRU</sub> to the National Transmission System, located on the connection flange of the manifold to the high pressure (HP) arm used for the discharging Gaseous Fuel from the FSRU(s) and which is part of the Transmission System;
<b>PURE Tariff Regulation</b>	President of the Energy Regulatory Office / President of the ERO Regulation of the Minister of Energy of 15 March 2018 concerning detailed principles of tariff design and calculation, and settlements in gas trade (Dz.U.2021.280 as amended);
<b>Force Majeure</b>	an event or circumstance which is beyond the control of the party concerned, and which could not have been prevented by that party, despite taking appropriate action expected of the Operator or Participant/ Terminal User <sub>FSRU</sub> , as the case may be, taking into account the professional nature of their activities, as a result of which the affected party is unable to perform one or more of its obligations under the General Implementation Conditions, Regasification Agreement <sub>FSRU</sub> or Regasification Order <sub>FSRU</sub> . Specifically, Force Majeure shall be understood as natural disasters and catastrophes (e.g. hurricanes, fires, floods, earthquakes), events resulting from any acts of the government, riots, strikes, social unrest, acts of terror, piracy or sabotage, acts of war (including civil war);
<b>Unloading Berth</b>	Equipment and structures within the Terminal <sub>FSRU</sub> for mooring the LNG carrier and unloading LNG from the carrier moored alongside the FSRU.
<b>Terminal<sub>FSRU</sub></b>	liquefied natural gas facility located in the Port of Gdańsk, comprising (a) Floating Storage Regasification Unit(s) (FSRU), with the capabilities required for unloading LNG, in-process storage and regasification of LNG as well as for providing Additional Services, inclusive of Unloading Berth and Unloading Platform;
<b>Participant</b>	anyone who has been registered by GAZ-SYSTEM S.A. as a participant to the Procedure;
<b>Regasification Agreement<sub>FSRU</sub></b>	a framework agreement to provide Regasification Services <sub>FSRU</sub> , pursuant to which the Terminal User <sub>FSRU</sub> and the Operator execute Regasification Orders <sub>FSRU</sub> ;
<b>Regasification Services<sub>FSRU</sub></b>	services provided by GAZ-SYSTEM S.A. as defined in point 6.3.2;
<b>Non-Working Days Act</b>	the Act of 18 January 1951 on Non-Working days (Dz.U.2020.54.1920, as amended).
<b>Act on Protection of Classified Information</b>	the act of August 2010 on the protection of classified information (Dz.U.2023.756, as amended);
<b>Terminal User<sub>FSRU</sub></b>	the entity with which the Regasification Agreement <sub>FSRU</sub> has been executed;

<b>Normal Conditions</b>	the reference conditions for billing purposes, absolute pressure of 101.325 kPa and temperature of 273.15 K;
<b>Applicant</b>	an entity that has submitted or intends to submit the Registration Form;
<b>Regasification Order<sub>FSRU</sub></b>	a regasification order executed pursuant to the Regasification Agreement <sub>FSRU</sub> specifying the period of provision, technical parameters and other conditions applicable to Regasification Services <sub>FSRU</sub> .

**6. DESCRIPTION OF THE TERMINAL<sub>FSRU</sub> AND DESCRIPTION OF THE INVESTMENT PROJECT INVOLVING THE DESIGN AND CONSTRUCTION OF THE TERMINAL<sub>FSRU</sub> IN THE SCOPE COVERED BY FSRU II OPEN SEASON**

**6.1 DESCRIPTION OF THE INVESTMENT PROJECT INVOLVING THE DESIGN AND CONSTRUCTION OF THE TERMINAL<sub>FSRU</sub> IN THE SCOPE COVERED BY FSRU II OPEN SEASON**

6.1.1 The Investment Undertaking shall involve:

6.1.1.1 acquisition of title, installation and preparation for operation of the second Floating Storage Regasification Unit (FSRU)

**6.2 DESCRIPTION OF THE TERMINAL<sub>FSRU</sub> IN THE GDANSK REGION**

6.2.1 It is assumed that in the scope of Open Season, FSRU II will have the regasification capacity offered to Terminal Users<sub>FSRU</sub> at 5,996,460 kWh/h, but the decision on the final technical regasification capacity of the Terminal<sub>FSRU</sub> will, to a large extent, depend on:

6.2.1.1 the final decision on the size of the Terminal<sub>FSRU</sub> and on the adopted technology solutions which will influence the final regasification capacity;

6.2.1.2 the level of Offers received under this Procedure.

6.2.2 The technology processes to be supported by the Terminal<sub>FSRU</sub> shall include the unloading of LNG from a carrier at the Unloading Berth, in-process storage of LNG in tanks, regasification of LNG and sendout of Gaseous Fuel to the National Transmission System. At further stages of the Investment Project, the processes may also include other services.

**6.3 GENERAL DESCRIPTION OF THE SERVICES**

6.3.1 Regasification Services<sub>FSRU</sub> shall be provided to the extent resulting from the technical capacity of the Terminal<sub>FSRU</sub>, taking into account the technical parameters of the plant, in compliance with the provisions of the Terminal Code prevailing at that time and the contents of the Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> entered into with the Terminal Users<sub>FSRU</sub>. The services offered are related to the capacity of the new Terminal<sub>FSRU</sub> to the extent covered by the FSRU II Open Season Procedure, which will become available upon its commissioning.

**6.3.2 REGASIFICATION SERVICES<sub>FSRU</sub>**

6.3.2.1 Regasification Services<sub>FSRU</sub> are offered in a bundled form and comprise:

- (a) unloading of LNG from the Carrier into the tanks at the Terminal<sub>FSRU</sub>,
- (b) In-Process Storage of the Unloaded LNG Quantity in the tanks of the Terminal<sub>FSRU</sub>,

- (c) regasification of LNG,
- (d) delivery of Gaseous Fuel to the Exit Point.

6.3.2.2 Regasification Services<sub>FSRU</sub> shall be provided within the Slots, with a regasification rate of at least 60,000 Nm<sup>3</sup>/h, corresponding to at least 670 620 kWh/h.

6.3.2.3 A Slot includes the right of the Terminal User<sub>FSRU</sub> to:

- (a) unloading of one (1) LNG cargo from a Carrier approved by the Operator,
- (b) In-Process Storage, in accordance with the In-Process Storage Program, for the duration of the Slot,
- (c) regasification at a rate ranging between the Minimum Regasification Capacity and the Contractual and the Contracted Capacity available in the Slot (i.e. at the level of up to 5,996,460 kWh/h corresponding to 536 500 Nm<sup>3</sup>/h, subject to point 6.2.1) and the delivery of Gaseous Fuel to the Exit Point.

6.3.2.4 The duration of the Slot is 9 Gas Days with regasification rate ranging between the Minimum Regasification Capacity and the Contracted Capacity, and in accordance with the In-Process Storage Program.

6.3.2.5 In a single Slot, the Unloaded LNG Quantities must not exceed 1,166,878,800 kWh nor 180,000 m<sup>3</sup> of LNG.

#### 6.4 SERVICES MADE AVAILABLE IN THE PROCEDURE

6.4.1 In the Procedure, the Participants will be able to acquire the right to Regasification Services<sub>FSRU</sub> for a period ranging from one (1) year to fifteen (15) years within the allocated Slots; with a maximum of 39 Slots within each Gas Year (or proportionally less when the periods the Operator makes available under the Procedure are shorter than a full Gas Year).

6.4.2 Subject to a positive Final Investment Decision being taken by GAZ-SYSTEM S.A. and timely completion of the Investment Undertaking, the Regasification Services<sub>FSRU</sub> shall be made available as of 1 January 2028.

6.4.3 In case when the Investment Undertaking is completed at an earlier date, and as a result it will be possible to provide the Regasification Services<sub>FSRU</sub> before the date specified in accordance with point 6.4.2, then GAZ-SYSTEM S.A. shall offer the Terminal User<sub>FSRU</sub> that has executed the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub> in respect of the Regasification Services<sub>FSRU</sub> to be provided as of the aforementioned date, the option of an earlier commencement of the provision of the Regasification Services<sub>FSRU</sub> and an appropriate adjustment of the termination date of the provision of the Regasification Services<sub>FSRU</sub>. In the event when the Terminal User<sub>FSRU</sub> accepts the above modification of the term of provision of the Regasification Services<sub>FSRU</sub>, the Parties shall execute an annex to the Regasification Order<sub>FSRU</sub>.

### 7. SCHEDULE OF THE PROCEDURE

7.1 Table 1 shows the time schedule for the Procedure.

Table 1

ACTION IN THE PROCEDURE	EXPECTED DATE
Registration	Four (4) weeks after the initiation of the Procedure
Deadline for Offer submission	Four (4) weeks after end of the Registration
Announcement of the results of the allocation process	Three (4) weeks after the closing date for placing Offers
Execution of the Regasification Agreements <sub>FSRU</sub> and Regasification Orders <sub>FSRU</sub>	Ten (10) Business Days of receiving the Regasification Agreements <sub>FSRU</sub> and Regasification Orders <sub>FSRU</sub> from GAZ-SYSTEM S.A.
Final Investment Decision	Up to twelve (12) months after signing the Regasification Agreements <sub>FSRU</sub> and Regasification Orders <sub>FSRU</sub>

## 7.2 Amendments to the Schedule

- 7.2.1 GAZ-SYSTEM S.A. reserves the right to extend any deadline set out in the Schedule, for any reason, up to five (5) Business Days before its expiry, unless the Participants give their consent at a shorter notice.
- 7.2.2 Notwithstanding the foregoing, GAZ-SYSTEM S.A. may, at any time before the lapse of the applicable deadline, extend the deadline in the event of extraordinary circumstances such as Force Majeure, power outage, failure of GAZ-SYSTEM S.A. website, etc. The extension referred to above may not exceed three (3) months.
- 7.2.3 Information on each change of a deadline shall be published immediately in accordance with point 16.3. In addition, the Participants shall be informed of the change to the Schedule in a separate communication to be sent via email to the email address provided in the Registration Form.

## Part II - Placing Offers and Binding Allocation

### INTRODUCTION TO THE PROCEDURE

The purpose of the Procedure is to obtain binding Offers from the Participants for the booking of Regasification Services<sub>FSRU</sub> at the Terminal<sub>FSRU</sub> to the extent covered by the FSRU II Open Season Procedure, which will enable GAZ-SYSTEM S.A. to take a positive Final Investment Decision and for GAZ-SYSTEM S.A. to proceed with the construction of the Investment Project.

The allocation of Regasification Services<sub>FSRU</sub> shall be based on Offers submitted in the Procedure.

Upon receipt of the Offers in the Procedure, GAZ-SYSTEM S.A. shall assess whether the level of the Regasification Services<sub>FSRU</sub> allocated under the Procedure to the Participants who submitted Offers will allow the Investment Project to be implemented which is tantamount to allocating to and concluding with the Participants the Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> covering 100% of the services made available in the Procedure and required to pursue the Investment Project specified in point 12.3.1. If the level of reserved Regasification Services<sub>FSRU</sub> allocated to the Participants who placed Offers in the Procedure is lower than that specified in the preceding sentence, GAZ-SYSTEM S.A. shall be entitled to withdraw from the Investment Project and terminate the Procedure.

The Participants to which the Regasification Services<sub>FSRU</sub> are allocated as a result of the allocation process shall be obliged to execute Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> with GAZ-SYSTEM S.A. to set forth the terms and conditions of their use of the Regasification Services<sub>FSRU</sub>.



The drafts of the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub> are enclosed as Appendices to these General Implementation Conditions.

In parallel to the implementation of the Procedure, GAZ-SYSTEM S.A. shall take steps to prepare for the execution of the Investment Project. On the basis of the Procedure, specifically the allocation of Regasification Services<sub>FSRU</sub>, and following to the completion of the above-mentioned preparatory works, GAZ-SYSTEM S.A. shall take the Final Investment Decision. A positive Final Investment Decision shall be tantamount to the commencement of the execution phase of the Investment Project. In case of a negative Final Investment Decision, GAZ-SYSTEM S.A. shall discontinue the implementation of the Investment Project and withdraw from the executed Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub>.

The commencement of the provision of Regasification Services<sub>FSRU</sub> under the Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> executed in the Procedure shall be subject to the fulfilment of further prerequisites set forth in such agreements.

## **8. REGISTRATION**

### **8.1 SUBMISSION OF THE FORM**

8.1.1 In order to participate in the Procedure, interested users have to be registered as Participants by GAZ-SYSTEM S.A. following to the submission of a correctly filled in and complete Registration Form, the specimen of which constitutes Appendix No. 1 hereto.

8.1.2 The deadlines for the submission of Registration Forms for participation in the Procedure, including any documents required, are set out in the Schedule.

8.1.3 Applicants interested in participating in the Procedure should, by the date specified in the Schedule, submit the following documents to GAZ-SYSTEM S.A., at the address:

Mszczonowska 4, Building A, 02-337 Warsaw.

duly completed Registration Form, together with the documents indicated in point 8.1.4, in writing, and, by the same deadline, send a scan of the submitted documents by e-mail to the following address: [openseason@gaz-system.pl](mailto:openseason@gaz-system.pl).

Alternatively, Applicants interested in participating in the Procedure may, within the deadline specified in the Schedule, send the completed Registration Form together with the documents indicated in point 8.1.6 to [openseason@gaz-system.pl](mailto:openseason@gaz-system.pl) in electronic form signed with a qualified electronic signature.

8.1.4 Together with the Registration Form, the Applicant should submit:

8.1.4.1 documents confirming the legal form of business activity, including in particular a current extract from the National Court Register (KRS) or a computer printout of information about an entry to the KRS, and in case of an Applicant who does not have a registered office in the territory of the Republic of Poland – a current, i.e. issued not earlier than thirty (30) days before the deadline for submission of the Registration Form, excerpt from the appropriate register of entrepreneurs obtained in accordance with the rules set forth in the regulations of the country where the Applicant has its registered office;

8.1.4.2 if the Registration Form is not signed by authorised representations in accordance with the documents indicated in point 8.1.4.1, the original or a copy certified in accordance with point 8.1.7 (with an apostille attached if appropriate) of a power of attorney granted to the person signing the

Registration Form, or another document confirming the right of the person signing the Registration Form to represent the Applicant, containing the authorisation to sign the Registration Form and all related documents on behalf of the Applicant;

- 8.1.4.3 a copy of a framework transmission contract with GAZ-SYSTEM S.A. and a declaration that the Applicant will maintain the framework transmission contract throughout the duration of the Procedure, or an application for the conclusion of a framework transmission contract with GAZ-SYSTEM S.A. and a declaration that the Applicant will enter into and maintain the framework transmission contract throughout the duration of the Procedure;
  - 8.1.4.4 a licence, a promise of a licence or a declaration that the licence shall be presented thirty (30) days prior to the commencement of the provision of Regasification Services<sub>FSRU</sub>, or a declaration that the activity carried out by the Applicant does not require a licence, signed by the management board (authorised representatives) of the Applicant;
  - 8.1.4.5 a document confirming that the Applicant has been assigned a tax identification number (NIP) or an equivalent identification number required for entities established in another Member State if this information does not result from the contents of the document referred to in point 8.1.4.1;
  - 8.1.4.6 a certificate confirming the assignment of the REGON statistical number (Applicants conducting business activity in Poland), if this information does not result from the contents of the document referred to in point 8.1.4.1;
  - 8.1.4.7 a declaration, signed by authorised representatives of the Applicant in accordance with the documents referred to in point 8.1.4.1 or point 8.1.4.2, indicating whether: (i) any bankruptcy, restructuring or liquidation proceedings are pending against the Applicant; (ii) any steps have been taken to declare the Applicant bankrupt or to open any restructuring or liquidation proceedings against the Applicant, in particular, whether any restructuring or bankruptcy petition has been filed against the Applicant; (iii) any proceedings for the establishment of a receivership are pending against the Applicant, or whether the Applicant's assets have been secured in any way, e.g. by the appointment of a temporary court supervisor or provisional administrator. In case when the Applicant's registered office is not located on the territory of the Republic of Poland, the declaration should indicate whether any analogous proceedings are pending against the Application, or whether any analogous action has been taken, in accordance with the regulations applicable to the Applicant's registered office;
  - 8.1.4.8 a declaration, signed by authorised representatives of the Applicant in accordance with the documents referred to in point 8.1.4.1 or point 8.1.4.2, confirming that the Applicant has sufficient funds to meet the obligations arising from participation in the Procedure, and that these funds do not come from any undisclosed or illegal sources within the meaning of the Act of 1 March 2018 on counteracting money laundering and terrorism financing (for consolidated text see Dz.U.2023.1124, as amended).
- 8.1.5 The documents indicated in points 8.1.4.1 - 8.1.4.8 may be submitted as originals or as copies certified by the Applicant as true to the original (in accordance with the rules of representation), or by the person authorised to sign the Registration Form and all related documents on behalf of the Applicant as indicated in the documents set out in point 8.1.4.2. If the Registration Form or Offer is submitted in an electronic form, documents or statements which were not originally drawn up in the form of an electronic document must be submitted as electronic copies of the documents (scans) bearing a qualified electronic signature of the Applicant. Such signature is tantamount to certifying the electronic copy of the document or statement as being true to the original.

- 8.1.6 All documents, letters and statements attached to the Registration Form should be submitted to GAZ-SYSTEM S.A. in the Polish language. In the case documents in a language other than Polish, their sworn translation into Polish must be provided.
- 8.1.7 By signing the Registration Form, the Applicant undertakes to comply with and accepts the conditions of participation in the Procedure, specifically with regard to the following:
- 8.1.7.1 rules set out in the Procedure;
  - 8.1.7.2 amendments that may be made by GAZ-SYSTEM S.A. to the documentation constituting the basis for carrying out the Procedure, in particular to the Terminal Code and the Regasification Agreement<sub>FSRU</sub>, Regasification Order<sub>FSRU</sub> and appendices thereto;
  - 8.1.7.3 confidentiality;
  - 8.1.7.4 processing of personal data;
  - 8.1.7.5 allocation of regasification capacity;
  - 8.1.7.6 execution of the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub> and their provisions.
- 8.1.8 Registration Forms with accompanying documents which have not been submitted in accordance with 8.1.3, 8.1.5 and 8.1.6, or within the deadline indicated in the Schedule, shall be rejected. Wherever these General Implementation Conditions refer to the rejection of a Registration Form, such form shall be deemed not to have been submitted.
- 8.1.9 GAZ-SYSTEM S.A. may reject the Registration Form of an Applicant against whom: (i) bankruptcy, restructuring or liquidation proceedings are pending; (ii) steps have been taken to declare them bankrupt or to open any restructuring or liquidation proceedings, in particular, when a restructuring or bankruptcy petition has been filed; (iii) proceedings for the establishment of a receivership are pending, or whose assets have been secured in any way, e.g. by the appointment of a temporary court supervisor or provisional administrator. GAZ-SYSTEM S.A. may reject a Registration Form from an Applicant that is not based in the territory of the Republic of Poland if analogous proceedings are pending against it, or analogous actions have been taken in accordance with the regulations applicable to the Applicant's registered office.
- 8.1.10 Within five (5) Business Days of the receipt of the Registration Form, GAZ-SYSTEM S.A. shall assess the documents submitted by the Applicant for their compliance with the provisions of points 8.1.1 - 8.1.6. When the Registration Form or any of the documents submitted together with the Registration Form is incomplete or incorrect or raises other doubts, GAZ-SYSTEM S.A. Will request the Applicant to complete or correct the document or to provide clarification within three (3) Business Days. Failure to complete or correct a given Registration Form or to provide sufficient clarification within the prescribed time limit shall result in rejection of the Registration Form by GAZ-SYSTEM S.A. The provisions of points 8.1.3 and 8.1.5 apply accordingly.
- 8.1.11 GAZ-SYSTEM S.A. shall send a confirmation of the receipt of the Registration Form to the e-mail address indicated by the Applicant in the Registration Form. Within five (5) Business Days from the date of receipt of a correctly completed Registration Form accompanied by the required documents, GAZ-SYSTEM S.A. shall either register the Applicant as a Participant or reject the Registration Form due to the provisions of points 8.1.7 - 8.1.10, of which it shall inform the Applicant by e-mail sent to the address indicated in the Registration Form.
- 8.1.12 In case the statements of the Applicant referred to in point 8.1.4.7 or point 8.1.4.8 prove untrue, GAZ-SYSTEM S.A. may exclude the Applicant from the Procedure at any stage. In the event that the Regasification Agreement<sub>FSRU</sub> or Regasification Order<sub>FSRU</sub> have

been executed with a Participant whose declaration referred to in point 8.1.4.7 or point 8.1.4.8 proved to be untrue, GAZ-SYSTEM S.A. may withdraw from such Regasification Agreement<sub>FSRU</sub> or Regasification Order<sub>FSRU</sub> within thirty (30) days of becoming aware of the same. In such a case, GAZ-SYSTEM S.A. may claim the costs indicated in the Regasification Order<sub>FSRU</sub>. GAZ-SYSTEM S.A. may exercise the right to withdraw from the Regasification Agreement<sub>FSRU</sub> or Regasification Order<sub>FSRU</sub> until 31 December 2038.

- 8.1.13 GAZ-SYSTEM S.A. shall have the right to exclude a Participant from the Procedure at any stage if, due to legal regulations applicable to that Participant, there is no possibility of executing an effective Regasification Agreement<sub>FSRU</sub> or Regasification Order<sub>FSRU</sub> with such Participant on terms specified in the Procedure, or the Terminal Code. In such a case, GAZ-SYSTEM S.A. and the excluded Participant shall not bear the costs payable under these General Implementation Conditions in case of a failure to enter into the Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub>, as applicable, irrespective of the stage of the Procedure at which the exclusion was made, unless the legal regulations referred to in the previous sentence provide otherwise. The provisions of point **Błąd! Nie można odnaleźć źródła odwołania.** shall apply *mutatis mutandis*.

## 9. SUBMISSION OF AN OFFER

- 9.1 Participants interested in submitting a Offer should follow the procedure below: by the date specified in the Schedule submit to a Offer to GAZ-SYSTEM S.A., using the form enclosed as Appendix No. 2 to these General Implementation Conditions, in writing, to the following address:

*Mszczonowska 4, Building A, 02-337 Warsaw*

and, by the same deadline, send a scan of the filled in Offer by e-mail to the following address: [openseason@gaz-system.pl](mailto:openseason@gaz-system.pl).

Alternatively, Participants interested in submitting an Offer may, by the deadline specified in the Schedule, send an Offer using the form attached as Appendix No. 2 hereto in electronic form, signed with a qualified electronic signature, to the following address: [openseason@gaz-system.pl](mailto:openseason@gaz-system.pl).

- 9.2 The provisions of point 8.1.5 and point 8.1.6 apply as appropriate.
- 9.3 Attached to the Offer should be the confirmation of establishing the financial security referred to in Section 10.
- 9.4 Only an Offer submitted in accordance with the requirements set out in points 9.1 - 9.3, signed by authorised representatives of the Participant, shall have the effects referred to in points 9.5 - 9.6. The right of the persons signing the Offer to represent the Participant, in particular the authority to submit the Offer for and on behalf of the Participant, should be demonstrated by attaching an extract from the appropriate register, a power of attorney or another document evidencing the relevant authority, unless the right to represent has been demonstrated upon the registration.
- 9.5 By placing the Offer, the Participant shall undertake to enter into a Regasification Agreement<sub>FSRU</sub> and a Regasification Order<sub>FSRU</sub> for the use of Regasification Services<sub>FSRU</sub> according to the parameters specified in the Offer, subject to any changes resulting from the allocation procedure regulated in these General Implementation Conditions.
- 9.6 The Offer should include specifically the following:
- 9.6.1 an order to provide Regasification Services<sub>FSRU</sub> for any number of years, not exceeding fifteen (15) counting from the date to be determined by GAZ-SYSTEM S.A. in accordance with the provisions of point 6.4.2 second sentence. The Offer should include:

- 9.6.1.1 an order for the number of Slots (Ordering a Slot is tantamount to ordering Contracted Capacity for the duration of a Slot period), in which GAZ-SYSTEM S.A. is to provide the Regasification Services<sub>FSRU</sub>, for each Gas Year (maximum (thirty nine) 39) Slots (or proportionally less in case when periods shorter than a full Gas Year are made available by the Operator under the Procedure)) covered by the Regasification Order<sub>FSRU</sub>, in which the Participant intends to deliver LNG to the Terminal<sub>FSRU</sub>, provided that:
- (a) for one (1) Slot, the Unloaded LNG Quantities must not exceed 1,166,878,800 kWh or 180,000 m<sup>3</sup>.
  - (b) the duration of the Slot is nine (9) Gas Days, with regasification rate ranging between the Minimum Regasification Capacity (i.e. at least 670,620 kWh/h or 60 000 Nm<sup>3</sup>/h) and the Contracted Capacity (i.e. at a level of up to 5,996,460 kWh/h, i.e. 536 500 Nm<sup>3</sup>/h, subject to the provisions of point 6.2.1) and in accordance with the In-Process Storage Program;
- 9.6.1.2 an undertaking that the quality specifications of the LNG being subject of the order will conform to the Terminal Code;
- 9.6.1.3 the minimum order level expressed as the number of Slots in each Gas Year of the term of the Regasification Order<sub>FSRU</sub>, which the Participant would accept in case of reduction of its order when the allocation referred to in Section 11 is required.
- 9.7 An Offer which has not been submitted in accordance with point 9.1, by the deadline specified in the Schedule, or has been filled in an incorrect manner (e.g. contains errors or is incomplete), in particular inconsistent with the provisions of point 9.1, or contains data contrary to the provisions of point 9.6, or has been submitted without attaching a confirmation of the provision of financial security referred to in point 9.3, shall be rejected, subject to point 9.8. Wherever these General Implementation Conditions refer to the rejection of an Offer, such Offer shall be deemed not submitted.
- 9.8 GAZ-SYSTEM S.A. shall send a confirmation of the receipt of the Offer to the e-mail address indicated by the Participant in the Registration Form. When the Offer is incomplete or contains errors, in particular when not all the necessary information is provided or the confirmation of the provision of financial security referred to in Section 10 is not attached, GAZ-SYSTEM S.A. shall call upon the Participant concerned to supplement the deficiencies within three (3) Business Days of being notified thereof. The deficiencies shall be deemed supplemented when a response to the notification of GAZ-SYSTEM S.A. is delivered, in one of the forms described in point 9.1, within the aforementioned time limit and contains all requested information and documents. Otherwise, the Offer will be rejected by GAZ-SYSTEM S.A. The provisions of point 8.1.5 and point 8.1.6 apply as appropriate.
- 9.9 Until the time limit indicated in the Schedule as the deadline for submitting Offers expires, the Participant may submit a new Offer. The new Offer replaces the previous Offer and all information contained in the previous Offer shall be disregarded. The new Offer should conform to the requirements referred to in points 9.1 - 9.6.
- 9.10 The Participant shall remain to be bound by the Offer until the date when GAZ-SYSTEM S.A. announces the completion of Phase 2 of the Procedure and the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub> are signed, however no longer than until [...]. In case when the Regasification Order<sub>FSRU</sub> is not executed with the Participant within the period indicated in the previous sentence for reasons beyond the Participant's control, in the event of resignation by GAZ-SYSTEM S.A. from the implementation of the Project, or in case specified in point 17.7, the Operator shall reimburse the Participant for the cost of maintaining the bank guarantee presented as part of participation in the Procedure, but no more than (300,000) PLN excl. VAT per year, as prorated according to the time for which the guarantee was maintained in a given year, and no more than three million five hundred thousand (2,500,000) PLN excl. VAT in total.

For the avoidance of doubt, the Participant shall not be entitled to reimbursement of the costs of maintaining financial security in the form of a security deposit in the case set out in clause 10.4. nor if GAZ-SYSTEM S.A. undertakes negative Final Investment Decision.

## 10. FINANCIAL SECURITY

- 10.1 Participation in the Procedure and of entering into the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub> is conditional on the presentation and continued validity of a financial security, on the terms and in the form and amount specified in these General Implementation Conditions.
- 10.2 The amount of the financial security required by the Operator shall be equal to the value of the Regasification Services<sub>FSRU</sub> covered by the Participant's Offer for the period of one (1) Gas Year during which the value of such Regasification Services<sub>FSRU</sub> is the highest, as determined on the basis of indicative tariff rates for the Regasification Services<sub>FSRU</sub> and calculated in accordance with the tariff calculator enclosed as Appendix No. 6 prevailing as at the date of the commencement of the Procedure.
- 10.3 Subject to the circumstances set out in point 10.4, the financial security should be established in the form of an irrevocable, transferable, unconditional bank guarantee payable on first demand, the specimen of which is enclosed as Appendix No. 6 to these General Implementation Conditions, or in other form substantially with this specimen, provided that the wording of a bank guarantee different than the specimen is pre-approved by GAZ-SYSTEM S.A. The bank guarantee shall be issued by a bank with a current rating of not less than Baa2, BBB, BBB, respectively, depending on of the Agency: Moody's (*LT Rating*), Standard & Poor's (*LT Issuer Rating*) or Fitch (*LT IDR Rating*). In case when the relevant bank has acquired ratings from more than one rating agency, the lower rating shall apply. The bank guarantee shall be drawn up and interpreted according to the Polish law. If the bank guarantee had not been issued in Polish, it should be presented to GAZ-SYSTEM S.A. along with a sworn translation into Polish. The bank guarantee should be denominated in PLN. The guarantee shall be valid throughout the term of the Regasification Order<sub>FSRU</sub> and until the date when six (6) months have elapsed from the expiry date of the Regasification Order<sub>FSRU</sub>. In the event that the Participant provides security for a shorter period, the Participant shall be required, at least thirty (30) days prior to the expiry of the relevant guarantee, provide a new bank guarantee in line with the requirements set out herein, provided that the guarantee may not be issued for a period shorter than one (1) year. In the event of failure to submit a new bank guarantee by the indicated date, GAZ-SYSTEM S.A. shall have the right to draw on the existing guarantee, and the amount thus received will constitute an interest-free deposit.
- 10.4 the financial security referred to in point 10.2 shall be held in the form of a non-interest bearing security deposit in the Operator's bank account no. PL 94 1140 1977 0000 5803 0100 1031-... for the period of six (6) months of the Offer submission date. Within thirty (30) days prior to that date, the Participant shall be required to submit to the Operator the financial security in the form referred to in point 10.3. The Operator shall return the security deposit to the Participant within thirty (30) days of the presentation to the Operator and acceptance by the Operator of the bank guarantee referred to in point 10.3.
- 10.5 When providing the Operator with a bank guarantee, the Participant shall also provide a document confirming the cost of establishing such guarantee. Otherwise, the Participant shall not be entitled to receive reimbursement of the costs of maintaining the financial bank guarantee presented under the Procedure in the cases specified in these General Implementation Conditions.
- 10.6 In the event of a Participant's failure to fulfil its obligations under the Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub>, in particular in the event of:
- 10.6.1 the Participant's failure to execute a Regasification Agreement<sub>FSRU</sub> or a Regasification Order<sub>FSRU</sub> in accordance with the provisions of point **Błąd! Nie można odnaleźć źródła odwołania.**,

10.6.2 failure to fulfil obligations pursuant to the provisions of the Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub>,

10.6.3 termination of the Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub> by the Participant in breach of their provisions

GAZ-SYSTEM S.A. shall be entitled to demand that the Participant pays and the Participant shall be will obliged to pay the Investment Project execution costs incurred by GAZ-SYSTEM S.A., including:

10.6.4 the Investment Project implementation costs, according to the provisions of the Regasification Order<sub>FSRU</sub>,

10.6.5 the costs of maintaining bank guarantees submitted within the Procedure by other Participants, which GAZ-SYSTEM S.A. was obliged to reimburse for in accordance with the provisions of these General Implementation Conditions,

and to draw on the financial security, including the bank guarantee and security deposit established in accordance with point 10, up to its full amount.

10.7 The financial security shall be returned to the Participant within fourteen (14) Business Days in the following cases:

10.7.1 in accordance with the provisions of point 12.1.4. or point **Błąd! Nie można odnaleźć źródła odwołania.**, GAZ-SYSTEM S.A. decides to discontinue the implementation of the Investment Project and terminate the Procedure without executing the Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub>, unless the financial security referred to in item 10.6 is used by GAZ-SYSTEM S.A. to cover claims against the Participant that failed to conclude the Regasification Agreement<sub>FSRU</sub> or Regasification Order<sub>FSRU</sub>,

10.7.2 as a result of the allocation procedure in the Procedure, no Regasification Services<sub>FSRU</sub> are allocated to the Participant,

10.7.3 GAZ-SYSTEM S.A. decides to discontinue the Procedure, in accordance with point 17.7.,

10.7.4 in accordance with the provisions of the Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub>.

10.8 Detailed provisions on the obligations relating to the provision of a financial security after the execution of the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub> have been included in the contents of the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub>.

10.9 The bank guarantee amount may be subject to revision in the circumstances indicated in the Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub>.

## 11. ALLOCATION OF REGASIFICATION SERVICES<sub>FSRU</sub>

11.1 GAZ-SYSTEM S.A. shall analyse the Offers received in the Procedure, taking into account only correctly submitted and complete Offers that meet the requirements specified in Section 9.

11.2 If the total number of Slots requested in the submitted Offers is equal to the number of Slots made available under this Procedure, i.e. thirty nine (39) for the Gas Year (or proportionally fewer in case when shorter periods are made available under the Procedure), then each of the Participants, as a result of the allocation process, shall be the Regasification Services<sub>FSRU</sub> at the level applied for in its submitted Offer..

- 11.3 If the total number of Slots requested in the submitted Offers for the Gas Year exceeds the number of Slots made available under this Procedure in the given Gas Year (cf. point 11.2), then the following allocation rules shall apply:
- 11.3.1 Priority in the allocation of the Regasification Services<sub>FSRU</sub> for a given Gas Year shall be given to those Participants that in their Offers applied for the allocation of the number of Slots (determined in total for all Gas Years included in the Offer) generating the highest value, discounted with the weighted average cost of capital of the Operator, of future revenues of GAZ-SYSTEM S.A., calculated on the basis of indicative tariff rates published under the Procedure.
- 11.3.2 Slots shall be allocated to Participants in the order of the Offers determined on the basis of the priority rules set out in point 11.3.1 up to the level at which the number of Slots made available under the Procedure for a given Gas Year is exhausted. If the exhaustion of the number of Slots for a given Gas Year occurs within the allocation of Slots for Offers generating the same value of future revenues for GAZ-SYSTEM S.A., Slots within this group of Offers, within a given Gas Year, shall be allocated to the Participants who have submitted the indicated Offers in the proportion in which the number of Slots requested by a Participant in an Offer for a given Gas Year remains to the sum of all Slots requested in Offers for a given Gas Year generating the same value of future revenues of GAZ-SYSTEM S.A., with the next Slot being allocated to the Participant whose result after applying the proportion exceeds 0.5 Slot.
- 11.3.3 No consideration shall be given to Offers which, as a result of the allocation of the number of Slots, would lead to the reduction in the requested number of Slots in a given Gas Year below the minimum order level in terms of the number of Slots that the Participant accepts following the reduction in its order in view of the need for allocation with respect to any Gas Year during the term of the Regasification Order<sub>FSRU</sub>, as indicated in the Participant's Offer in accordance with point 9.6.1.3.
- 11.3.4 In the event that the Procedure results in the allocation of the entire quantity of offered Slots to the Participants, GAZ-SYSTEM S.A. shall be entitled, at its sole discretion, to decide on abandoning the Investment Project or applying the procedure set out in point 12.1.8..
- 11.4 In the event that the Procedure results in the lack of allocation of the entire quantity of offered Slots to the Participants, GAZ-SYSTEM S.A. shall be entitled, at its sole discretion, to decide on abandoning the Investment Project, in accordance with point 12.1.3 or applying the procedure set out in point 12.1.8.
- 11.5 GAZ-SYSTEM S.A. shall provide each of the Participants with information in writing on the allocation of the Regasification Services<sub>FSRU</sub>, on the number of Slots allocated to a given Participant for each Gas Year for which the Regasification Services<sub>FSRU</sub> have been made available under the Procedure, and such information shall be enclosed as an attachment to the Regasification Order<sub>FSRU</sub>.

## **12. EXECUTION OF THE REGASIFICATION AGREEMENTS<sub>FSRU</sub>, THE REGASIFICATION ORDER<sub>FSRU</sub> AND THE FINAL INVESTMENT DECISION**

### **12.1 Assessment of allocation results**

- 12.1.1 Within the time frame specified in the Schedule, and according to the level specified in point 12.1.2., GAZ-SYSTEM S.A. shall assess whether the level of the Regasification Services<sub>FSRU</sub> allocated in the Procedure to the Participants that submitted Offers is sufficient for GAZ-SYSTEM S.A. to continue its activities with a view to preparing the execution of the Investment Project (subject to a positive Final Investment Decision).
- 12.1.2 In order for GAZ-SYSTEM S.A. to conclude that the total level of the Regasification Services<sub>FSRU</sub> demanded in the Offers is sufficient for GAZ-SYSTEM S.A. to continue its activities with a view to preparing the execution of the Investment Project, the total level



of Regasification Services<sub>FSRU</sub> should equal at least thirty nine (39) Slots for each Gas Year offered under the Open Season, and in the event that periods shorter than a full Gas Year are made available by the Operator under the Procedure – proportionally less than thirty nine (39) Slots, rounded up to full Slots.

- 12.1.3 If the condition stipulated in point 12.1.2. is fulfilled, GAZ-SYSTEM S.A. shall continue its activities with a view to preparing the execution of the Investment Project, and the Participants to which Slots have been allocated as a result of the allocation carried out in the Procedure shall be obliged to execute Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> according to the provisions of point 12.2.
  - 12.1.4 If the condition set out in point 12.1.2 is not fulfilled, GAZ-SYSTEM S.A. shall have right to decide to discontinue the implementation of the Investment Project. Offers submitted in the Procedure shall automatically expire upon decision to discontinue the implementation of the Investment Project. Neither GAZ-SYSTEM S.A. nor the Participants that have effectively submitted their Offers in the Procedure shall be obliged to execute the Regasification Agreements<sub>FSRU</sub> or Regasification Orders<sub>FSRU</sub>.
  - 12.1.5 GAZ-SYSTEM S.A., at its own discretion, after further analysis of the feasibility of the Investment Project, may decide to continue its activities with a view to preparing the execution of the Investment Project despite the fact that the condition specified in point 12.1.2. has not been met. In such a case, the Participants that have been allocated Slots as a result of the allocation procedure conducted in the Procedure shall be obliged to execute Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> in accordance with the provisions of point 12.2.
  - 12.1.6 Following to the review of the Offers in the Procedure by GAZ-SYSTEM S.A. each of the Participants that submitted Offers in the Procedure shall be informed about the decision taken by GAZ-SYSTEM S.A. concerning the continuation of its activities with a view to preparing the Investment Project for implementation.
  - 12.1.7 The decision to discontinue the implementation of the Investment Project shall not give rise to any claims against GAZ-SYSTEM S.A on the part of the Participant.
  - 12.1.8 If the condition referred to in point 12.1.2 is not fulfilled and the indicated minimum level of Regasification Services<sub>FSRU</sub> is not achieved based on the received Offers, the Operator may repeat the process of submitting Offers in the Procedure, limited to those Participants that submitted binding Offers in the Procedure. At the same time, GAZ-SYSTEM S.A. shall inform the current Participants about:
    - 12.1.8.1 the decision to repeat the Offer submission process;
    - 12.1.8.2 the shortfall volume of the Regasification Services<sub>FSRU</sub>, relative to the level referred to in point 12.1.2;
    - 12.1.8.3 the new deadline for submission of Offers;
    - 12.1.8.4 the documents to be provided to the Operator.
  - 12.1.9 As of the date on which the Participant submits an Offer under the repeated Offer submission process, its prior Offer shall cease to be valid. In case when no Offer is submitted during the repeated Offer submission process, or when the submitted Offer is lower than the previous one, the Participant's previous Offer is shall be deemed sustained.
  - 12.1.10 When the Offer submission process is repeated in accordance with the provisions of point 12.1.8., the provisions of Section 11 and of points 12.1.1. - 12.1.7. apply as appropriate.
- 12.2 Execution of the Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub>

- 12.2.1 In the event that GAZ-SYSTEM S.A. decides that the total demand for the Regasification Services<sub>FSRU</sub> resulting from the Offers is sufficient to continue its activities with a view to preparing the execution of the Investment Project, together with the information referred to in point 12.1.6., GAZ-SYSTEM S.A. shall send drafts of the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub> to the Participants that effectively submitted Offers in the Procedure and were allocated Slots as a result of the allocation procedure, by the date set out in the Schedule.
- 12.2.2 The Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub> shall be consistent with the contents of the drafts enclosed as Appendix No. 3 to these General Implementation Conditions.
- 12.2.3 Each Participant that has received the drafts of the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub> from GAZ-SYSTEM S.A. shall be obliged to deliver the signed drafts of the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub> in writing to GAZ-SYSTEM S.A. at its registered office address indicated in point 9.1, within ten (10) Business Days of receiving such drafts. In the event that the draft of the Regasification Agreement<sub>FSRU</sub> and the draft of the Regasification Order<sub>FSRU</sub> signed by the Participant are not received within the aforementioned deadline, GAZ-SYSTEM S.A. shall consider that such Participant decided not to enter into the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub>. GAZ-SYSTEM S.A. shall send the signed drafts of the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub> in writing to the Participant within ten (10) Business Days from the date of delivery to GAZ-SYSTEM S.A. of the drafts of the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub> signed by the Participant, to the mailing address indicated in the Registration Form. Alternatively, within the deadline specified above, the Participant may send the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub> to [openseason@gaz-system.pl](mailto:openseason@gaz-system.pl) in electronic form, signed with a qualified electronic signature. In such case GAZ-SYSTEM S.A. shall send the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub> signed with a qualified electronic signature to the Participant.
- 12.2.4 In the event that the Participant fails to submit the signed draft Regasification Agreement<sub>FSRU</sub> or the draft Regasification Order<sub>FSRU</sub>, and GAZ-SYSTEM S.A. considers pursuant to point 12.2.3 that the Participant has decided not to enter into the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub>, then GAZ-SYSTEM S.A. shall be entitled to withdraw from the Investment Project implementation. If such decision is made, the provisions of point 12.1.4. - 12.1.7 shall apply accordingly, and the Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> concluded until then shall expire, whereas if none have been concluded, GAZ-SYSTEM S.A. shall not be obliged to sign draft Regasification Agreements<sub>FSRU</sub> or the draft Regasification Orders<sub>FSRU</sub> submitted by the Participants. In such a case, GAZ-SYSTEM S.A. may also decide to apply the provisions of clause 12.1.8. whereas it shall only apply to the Participants who have submitted the signed draft Regasification Agreements<sub>FSRU</sub> or draft Regasification Orders<sub>FSRU</sub> within the prescribed time limit. Participants who as a result of re-allocation will be allocated more Regasification Services<sub>FSRU</sub> than they were originally allocated, will be offered an appropriate annex to the Regasification Order<sub>FSRU</sub>. To such Annex, the provisions of clause 12.2.3 shall apply accordingly. In such a case, upon concluding the Annex, the Participant shall be obliged to present an appropriately increased financial security that meets the conditions set out in Chapter 10. In the event that such financial security was established in the form of a bank guarantee, the failure to present such a security shall entitle GAZ-SYSTEM S.A. to use the existing bank guarantee to the extent to which it is necessary to increase its amount, and the resultant amount shall constitute an interest-free security deposit; in the event that the financial security was established in the form of a security deposit pursuant to point 10.4, the provisions contained in clause 12.2.3 shall apply accordingly.
- 12.2.5 GAZ-SYSTEM S.A. may refuse to sign the Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub> with the Participant against whom: (i) bankruptcy, restructuring or liquidation proceedings are pending; (ii) steps have been taken to declare them bankrupt or to open any restructuring or liquidation proceedings, in particular, when a

restructuring or bankruptcy petition has been filed; (iii) proceedings for the establishment of a receivership are pending, or whose assets have been secured in any way, e.g. by the appointment of a temporary court supervisor or provisional administrator. GAZ- SYSTEM S.A. may refuse to sign a Regasification Agreement<sub>FSRU</sub> or Regasification Order<sub>FSRU</sub> with a Participant that is not based in the territory of the Republic of Poland, if analogous proceedings are pending against it, or analogous actions have been taken in accordance with the regulations applicable to the Participant's registered office.

12.2.6 Due to the technical parameters of the Terminal<sub>FSRU</sub>, to the extent covered by this FSRU Open Season Procedure, in particular the results of final equipment tests after the completion of the Investment Project, GAZ-SYSTEM S.A. reserves the right to unilaterally reduce the number of Slots or the Contracted Capacity available within the Slots agreed in all the Regasification Agreements<sub>FSRU</sub> and the Regasification Orders<sub>FSRU</sub> executed as a result of the Procedure by no more than 3 Slots or 5% of Contracted Capacity, which Participants accept without reservation. The reduction shall be effective provided that it applies to the same extent to all Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> executed as a result of the Procedure. GAZ-SYSTEM S.A. shall exercise the right referred to above by way of a written notice addressed to the Participant. The notice referred to in the first sentence may be submitted by GAZ-SYSTEM S.A. within six (6) months of the date of the commissioning of the Terminal<sub>FSRU</sub> to the extent covered by this FSRU II Open Season Procedure.

### 12.3 Final Investment Decision

12.3.1 If the conditions set forth in the Regasification Order<sub>FSRU</sub> for GAZ-SYSTEM S.A. to take a positive Final Investment Decision are met, including e.g. the decision as to the FSRU procurement model and the conclusion of an appropriate agreement (construction/adaptation/lease of a FSRU), GAZ-SYSTEM S.A. shall have the right to take a positive Final Investment Decision.

12.3.2 In case when any of the conditions specified in point 12.3.1 is not fulfilled by the deadline specified in the Schedule, GAZ-SYSTEM S.A. shall have the right to take a negative Final Investment Decision and thus to discontinue the implementation of the Investment Project. In case when a negative Final Investment Decision is taken, GAZ-SYSTEM S.A. shall exercise its right to withdraw from the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub>. The consequences of such withdrawal shall be governed by the Regasification Order<sub>FSRU</sub>.

12.3.3 GAZ-SYSTEM S.A. shall have the right to take a positive Final Investment Decision despite the non-fulfilment of any of the conditions set forth in the Regasification Order<sub>FSRU</sub>.

12.3.4 GAZ-SYSTEM S.A. shall inform the Participants with whom it executed Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> of the Final Investment Decision by the date indicated in the Schedule as the deadline for taking the Final Investment Decision. The provisions of point 12.1.7 shall apply *mutatis mutandis*.

## Part III: GENERAL PROVISIONS

### 13. FEES

#### 13.1 TARIFFS AND COSTS RELATED TO REGASIFICATION SERVICES<sub>FSRU</sub>

13.1.1 Fees for the Regasification Services<sub>FSRU</sub> provided under Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> executed under the Procedure shall be calculated in accordance with then effective tariff and the Terminal Code.

- 13.1.2 Tariff rates shall be determined in accordance with the legislation in force at the time.
- 13.1.3 In case when no legal regulations applicable to tariff setting are in force, the tariffs for the Regasification Services<sub>FSRU</sub> shall be determined taking into account the provisions of the Energy Law and the Tariff Regulation according to the wording prevailing at the date of the execution of the Regasification Order<sub>FSRU</sub>.
- 13.1.4 The Participants of the Procedure accept that the tariff for the Regasification Services<sub>FSRU</sub> may be set by GAZ-SYSTEM S.A. in accordance with the principles set forth in legal regulations being in force as at the date of setting the tariffs.
- 13.1.5 The tariff rates presented by GAZ-SYSTEM S.A. in the Procedure are indicative only and are intended solely to make possible the calculation of approximate costs of using the Regasification Services<sub>FSRU</sub>.

## 13.2 TARRIF CALCULATION METHODOLOGY

- 13.2.1 Upon the commencement of the Procedure, GAZ-SYSTEM S.A. shall publish a tariff calculator which will enable each of the Participants to calculate the indicative tariff rate for the provision of Regasification Services<sub>FSRU</sub>, which a given Participant would be obliged to pay on the basis of its Offer.
- 13.2.2 The indicative tariff rates presented by GAZ-SYSTEM S.A. in the tariff calculator enclosed as Appendix No. 6 are not binding in any way and serve only for information purposes. GAZ-SYSTEM S.A. reserves the right to define and publish tariffs independently of the data presented in the tariff calculator.
- 13.2.3 The rates quoted in the Procedure have been calculated in accordance with applicable law and the principles set out in these General Implementation Conditions. The tariff rates have been calculated with the utmost care, on the basis of the knowledge available to GAZ-SYSTEM S.A., but may and probably will differ from the actual rates calculated after the completion of the Investment Project.
- 13.2.4 Together with the calculation of indicative tariff rates, GAZ-SYSTEM S.A. shall provide comprehensive and complete information on the assumptions used for their calculation as well as on the drivers of their potential change. GAZ-SYSTEM S.A. reserves, however, that the costs assumed for the calculation of tariff rates may differ from the final investment costs.

## 14. CONFIDENTIALITY

- 14.1 All information obtained by GAZ-SYSTEM S.A. from Participants and marked as confidential shall be treated as confidential and shall not be shared with third parties. However, GAZ-SYSTEM S.A. shall have the right to disclose the confidential information obtained in the course of the Procedure to:
  - 14.1.1 corporate bodies of GAZ-SYSTEM S.A. and supervising public administration authorities;
  - 14.1.2 President of the ERO;
  - 14.1.3 entities providing funding to the Investment Project;
  - 14.1.4 legal, technical and business advisors whose services are used by GAZ-SYSTEM S.A. for the purpose implementing the investment project;

- 14.1.5 other authorities or bodies authorised to obtain such information on the basis of legal regulations.
- 14.2 When implementation of the Procedure involves access to classified information or trade secrets of GAZ-SYSTEM S.A., the provisions of the Act on Protection of Classified Information or the Act on Combating Unfair Competition of 16 April 1993 (Dz.U.2020.1913, as amended) shall apply to the proceedings under the Procedure, as appropriate.
- 14.3 The trade secret of GAZ-SYSTEM S.A. means any information that has not been made public, including any information of GAZ-SYSTEM S.A. related to technical aspects, technology or organisation, or other information of economic value, which, either in its entirety or as a specific selection and collection of its components, is not generally known to persons usually concerned with this type of information, or is not easily accessible to such persons, and has been marked as the “Secret of GAZ-SYSTEM” or “Trade’s secret” or other, in respect of which GAZ-SYSTEM S.A. has taken necessary measures to ensure its confidentiality, as well as information and documents containing trade secret of entities other than GAZ-SYSTEM S.A. which is in the possession of GAZ-SYSTEM S.A. or its employees and with respect to which those entities have expressly taken necessary measures to ensure its confidentiality.
- 14.4 Materials, documents and information constituting trade secret of GAZ-SYSTEM S.A. shall only be made available to an addressee indicated by name in writing by GAZ-SYSTEM S.A., and the addressee shall be responsible for their appropriate protection to prevent third party access, loss or disclosure by that addressee. Copying the above materials, making handwritten copies and sharing them with further recipients shall each time require a written consent of the GAZ-SYSTEM S.A.
- 14.5 In particularly justified cases, GAZ-SYSTEM S.A. reserves the right to make certain materials available to the entities participating in the Procedure only for inspection at the premises of GAZ-SYSTEM S.A., without the possibility of making copies. Materials and documents constituting a trade secret or classified information within the meaning of the Act on Protection of Classified Information shall be made available only to persons who have been granted appropriate authorisation or security clearance, and have undergone the necessary training in this respect.
- 14.6 Notwithstanding the provisions of points 14.1 - 14.5, GAZ-SYSTEM S.A. shall publish information to the extent required by the applicable laws.

## **15. COOPERATION WITH OTHER ENTITIES AND INTEROPERABILITY WITH THE TRANSMISSION SYSTEM**

- 15.1 GAZ-SYSTEM S.A. shall be responsible only for the planned construction of the Terminal<sub>FSRU</sub> and shall seek to minimise any potential disruptions to the investment process. GAZ-SYSTEM S.A. shall not be responsible for the completion of investments other than those specified in the Regasification Agreement<sub>FSRU</sub> and Regasification Order<sub>FSRU</sub>.
- 15.2 In order to enable the Participant that executed the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub> to obtain access to the capacity of the physical entry point to be created as a result of the completion of the Investment Undertaking at the connection with the Terminal<sub>FSRU</sub>, GAZ-SYSTEM S.A. shall undertake efforts in due time to adapt the Transmission Network Code as required.

## **16. COMMUNICATION**

- 16.1 All materials concerning the FSRU Open Season shall be available on the website: <https://www.gaz-system.pl>

- 16.2 An entity interested in participating in the Procedure and the Participant shall be fully responsible for obtaining the relevant information and documents governing the Procedure, as well as for becoming familiar with all relevant information and documents and amendments or corrections made to such documents and announced on the website indicated at 16.1.
- 16.3 All announcements of GAZ-SYSTEM S.A. connected with the implementation of the Procedure shall be published on the website indicated in point 16.1. In the event of publication of new documents or information concerning the Procedure, all Participants shall automatically receive an email from GAZ-SYSTEM S.A. sent to the address provided in the Registration Form.
- 16.4 All communication with GAZ-SYSTEM S.A. concerning the FSRU II Open Season shall be conducted in Polish. Additionally, GAZ-SYSTEM S.A. shall provide for the possibility of communicating in English with regard to the FSRU II Open Season. In case of any inconsistencies between the Polish and English language version, the Polish language version shall prevail.

## 17. FINAL PROVISIONS

- 17.1 The commencement of the Procedure shall not constitute an obligation on the part of GAZ-SYSTEM S.A. to implement the Investment Project or to provide the Regasification Services<sub>FSRU</sub> specified in these General Implementation Conditions.
- 17.2 All costs and expenses of the Participant arising from or incurred in connection with participation in the Procedure shall be borne by the Participant and shall not be reimbursable by GAZ-SYSTEM S.A. The rule set forth in the previous sentence refers in particular to the costs of obtaining and maintaining by the Participant a financial security, i.e. a bank guarantee, in accordance with, point 10.2, unless the provisions of the General Implementation Conditions, the Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub> provide otherwise.
- 17.3 These General Implementation Conditions do not constitute an offer to execute, the Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub>, but only outline the terms and conditions on which the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub> shall be executed and performed.
- 17.4 In case when one of the provisions of these General Implementation Conditions is deemed inadmissible or unenforceable, that provision shall be deemed excluded from the General Implementation Conditions and all other provisions shall remain in full force and effect, and a provision of similar content reflecting the original intent shall replace the provision deemed inadmissible or unenforceable to the extent consistent with applicable law.
- 17.5 GAZ-SYSTEM S.A. reserves the right to amend or supplement the rules of the Procedure, General Implementation Conditions or Appendices, including the extension of deadlines for the performance of individual activities described in the Procedure, in particular those contained in the Schedule. Such changes or additions shall be announced on the GAZ-SYSTEM S.A.'s website and the Participants shall be notified of them in writing. The change or addition referred to in this section shall not give rise to any claims on the part of the Participant or any other entity interested in participating in the Procedure, against GAZ-SYSTEM S.A. The Operator undertakes not to make any changes or additions to the draft Regasification Order<sub>FSRU</sub> after Participants have submitted their Offers.
- 17.6 The code applicable to the operation and maintenance of the liquefied natural gas facility - Terminal<sub>FSRU</sub> within the meaning of the Energy Law and corresponding to the maximum extent to the Terminal Code shall be presented by GAZ-SYSTEM S.A. to the PURE for approval, in accordance with an appropriate procedure pursuant to the provisions of the applicable legal regulations. The Terminal Code shall be binding on Participants to the extent that it does not conflict with the code applicable to the operation and maintenance of the liquefied natural gas facility - Terminal<sub>FSRU</sub>, as approved by PURE.

- 17.7 GAZ-SYSTEM S.A. reserves the right to discontinue the Procedure at any stage, i.e. until the moment when GAZ-SYSTEM S.A. informs the Participants with whom it has entered into the Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> on the Final Investment Decision in accordance with point 12.3.4. In such a case, GAZ-SYSTEM S.A. shall inform the Participants of the cancellation of the FSRU II Open Season and the withdrawal from the Investment Project, specify the reasons for such cancellation and, if applicable, indicate when it expects to repeat the Procedure. The Regasification Agreements<sub>FSRU</sub> and Regasification Orders<sub>FSRU</sub> concluded until that moment shall expire and GAZ-SYSTEM S.A. shall reimburse the Participants (except for the situation stipulated in point 12.3.2) for the costs incurred by them in maintaining the bank guarantees presented as part of the participation in the Procedure, in the amount specified in point **Błąd! Nie można odnaleźć źródła odwołania.** Detailed rules in this respect shall be set forth in the provisions of the Regasification Agreement<sub>FSRU</sub> and the Regasification Order<sub>FSRU</sub>.
- 17.8 Neither GAZ-SYSTEM S.A. nor the Participant shall be liable for damage suffered by the other party in connection with the performance of the Procedure, unless the damage results from a wilful misconduct of the other party.
- 17.9 The Parties shall endeavour to resolve amicably any disputes arising in connection with the Procedure or its interpretation. Should the efforts to arrive at an amicable solution fail, any disputes arising out of or in connection with the participation in the Procedure, and the Regasification Agreement<sub>FSRU</sub> or the Regasification Order<sub>FSRU</sub> shall be settled by a competent court having jurisdiction over the Śródmieście district of the City of Warsaw.
- 17.10 These General Implementation Conditions and the appendices hereto have been drawn up in Polish and English language versions, with the Polish language version prevailing in the event of any inconsistencies.
- 17.11 The privacy notice required under Articles 13 and 14 of the GDPR is attached as Appendix No. 7 to these General Implementation Conditions. The entities participating in the Procedure undertake to make it available to the persons whose personal data will be disclosed to GAZ-SYSTEM S.A. in connection with the Procedure. Information on the principles of personal data processing by GAZ-SYSTEM S.A. can be found at: <https://en.gaz-system.pl/stopka/polityka-prywatnosci/>.