

# Qualification Rules for Participation in the Bilateral Procurement of liquified natural gas („LNG“) of Trading Hub Europe GmbH

(hereinafter referred to as “Qualification Rules”)

The Qualification Rules set out herein apply to all Bidders wishing to participate in the bilateral Procurement of liquified natural gas („LNG“) of Trading Hub Europe GmbH (hereinafter referred to as “THE”)

## Preamble

The war in Ukraine significantly increases the risks for the gas market. The German Federal Government has, therefore, provided the Buyer with funds to procure liquified natural gas ("LNG") and store it in German gas storage facilities (including the storage 7Fields in Austria) in a timely manner. This is to ensure security of supply with natural gas.

The LNG shall be supplied from LNG cargoes that were originally not destined for the German market but can be diverted at short notice.

The sale of the LNG to the Buyer shall include its regasification, transportation and storage in a gas storage facility. If required to ensure security of natural gas supply, the natural Gas is to be withdrawn either in the short term. The transfer of the purchased natural Gas to the Buyer shall take place in the storage location.

THE applies these principles when taking liquified natural Gas. Any Balancing Group Manager in the Trading Hub Europe Market Area (hereinafter referred to as "Bidder") who is in a position to offer the contractual services regarding liquified natural Gas and who wishes to participate in the THE's bilateral Procurement of liquified natural gas is required to complete a qualification procedure. This document describes the details of said qualification procedure, including the required qualification application documents.

### **§ 1 General Information on the Qualification Procedure for Being Admitted as a Bidder**

(1) The successful completion of the qualification procedure set out herein is a prerequisite for participating in the THE's bilateral Procurement of liquified natural gas. By completing and signing the admission form, the applicant agrees to these Qualification Rules.

- (2) Any Bidder may participate in the THE's qualification procedure and submit an application for admission by using the e-mail address: [LNGBeschaffung@tradinghub.eu](mailto:LNGBeschaffung@tradinghub.eu) (Appendix 1).
- (3) Bidding consortia are obliged to appoint a deputy who will act as the responsible contact person vis-à-vis THE during the award procedure. The deputy will submit the application for the bidding consortium to THE. In the case of bidding consortia, it is generally sufficient that the suitability criteria are jointly fulfilled by the members of the bidding consortium. An exception applies to the declaration mentioned in Appendix 1 which must be submitted by each member of a bidding consortium including the deputy.
- (4) In the course of the qualification procedure, the Bidder shall demonstrate that it is able to meet the THE's requirements for the delivering LNG including its regasification, transportation and storage in a gas storage facility in Germany (including the storage 7Fields in Austria) (hereinafter: "Qualification"). In order to demonstrate its Qualification, the Bidder shall collect and submit to THE all the documents and evidence that are requested under this Qualification Rules.
- (5) The Bidder is responsible for the completeness and correctness of any and all information, documents and evidence submitted. THE reserves the right to require the Bidder to submit additional information, documents and evidence where necessary.
- (6) If the Bidder submitting the application as a legal person the application must be signed (electronically) either by a single person that is authorised to represent the entity individually, or by a group of persons authorised to act jointly on behalf of said entity. The application for admission is a legally binding undertaking.
- (7) Documents may be transmitted electronically (by email, see above § 1 (2)).
- (8) Any and all costs and expenses for the preparation and submission of the requested documents required for qualification shall be borne by the Bidder. Upon completion of the qualification procedure the documents submitted by the Bidder will not be returned to the Bidder; any documents which are no longer required will be destroyed.
- (9) Any queries the Bidder may have in connection with the prequalification procedure must be addressed to the contact provided on the website by using the e-mail address: [LNGBeschaffung@tradinghub.eu](mailto:LNGBeschaffung@tradinghub.eu).

(10) The Bidder is responsible for providing a correct and valid email address at which it can receive emails at any point in time.

## § 2 Review of Application Documents and Result of Qualification

Any qualification application which is incomplete, not in the required form or not in compliance with the Qualification Rules set out herein will not be processed. The right of THE set out in § 1 (5) remains unaffected.

In determining whether the Bidder is suitable and has the reliability required for ensuring a safe, secure and reliable supply of LNG, THE shall exercise its discretion in a way which is non-discriminatory and free from abuse.

Upon completion of its review of the documents and evidence submitted, THE will notify the Bidder of its decision as to the Bidder's qualification application.

The Bidder will be informed about the outcome of the review in writing or by email.

## § 3 General Data and Documentation

The Bidder shall submit the following documents concerning its business and/or itself:

- Up-to-date excerpt from the commercial register (*Handelsregister*) or - in the case of applicants from abroad - comparable proof from the respective country of origin,
- Fully completed application for admission as a Bidder (Appendix 1).

## § 4 Proof of Qualification

(1) In order to prove its Qualification, the Bidder shall meet the following requirements and submit the relevant supporting documents:

- The Bidder is already a Balancing Group Manager in the market area Trading Hub Europe.
- Ideally the Bidder is already a prequalified participant in the Bilateral Balancing Market of Trading Hub Europe.
- In the case that the Bidder is not a prequalified participant in the Bilateral Balancing Market of Trading Hub Europe, it is necessary that the Bidder:

Shall meet the following financial capability requirements

- The Bidder shall have sufficient creditworthiness. Sufficient creditworthiness of the Bidder will be refutably assumed if the Bidder has a long-term rating from the credit rating agency
  - Standard & Poors, and the minimum rating shall be BBB+,
  - Fitch, and the minimum rating shall be BBB+,
  - Moody's, and the minimum rating shall be Baa1, or
  - Dun & Bradstreet, and the minimum rating shall be BBBhigh.
- Sufficient creditworthiness shall be deemed to have been disproved if the Bidder also has a credit rating from another of the aforementioned credit rating agencies or from another recognised rating agency which is lower than the aforementioned credit ratings, or is not at least equivalent to any of the aforementioned ratings.
- If the Bidder's creditworthiness cannot be assumed on the basis of an existing credit rating in accordance with the above rules, the Bidder can prove its sufficient creditworthiness way of other reasonable evidence of creditworthiness. An indicator for the creditworthiness can also be a turnover of at least one billion euros in 2020 or 2021. This must be documented with an audited annual financial statement of the

beforementioned calendar years. However, the Bidder will not have the option of providing a security in this case.

- In the case that the Bidder is not a prequalified participant in the Bilateral Balancing Market of Trading Hub Europe, the Bidder shall specify which credit rating agencies have rated the Bidder and disclose the relevant credit ratings.
- (2) In order to prove its technical and operational Qualification, the Bidder shall demonstrate, that it is in a position to ensure a safe, secure and reliable supply of LNG including its regasification, transportation and storage in a gas storage facility. In particular, the Bidder shall provide proof that it has in place the required computer systems and that an appropriate level of availability is maintained. Such proof is not necessary in the case that the Bidder is a prequalified participant in the Bilateral Balancing Market of Trading Hub Europe.
- (3) In accordance with the laws and regulations on the observance of sanctions, the provider, its employees, its vicarious agents and the management must not be a sanctioned person and therefore not be on a sanctions list. The sanction lists of following countries and institutions are relevant:
- European Union including its Member States;
  - United Kingdom;
  - Switzerland;
  - United States of America;
  - United Nations;
  - the relevant governmental agencies and agencies of the foregoing states/confederations, including but not limited to the „United States Department of Treasury's Office of Foreign Assets Control“ (OFAC), the „United States Department of State“, the „United States Department of Commerce“ and „Her Majesty's Treasury“.

The anti-terror regulations 2580/2002, 881/2002 must also be observed by the Bidder as well as the compliance with relevant anti-corruption and anti-money laundering regulations.

## **§ 5 Changes with Respect to Qualification Requirements**

- (1) By submitting its application for qualification, the Bidder undertakes to notify THE

in writing, without it being necessary for the THE to request such notification, in the event of any significant change affecting the information and/or documents submitted for the purpose of the Bidder's application, and to do so without undue delay.

- (2) If the THE reaches the conclusion that following a change in any of the circumstances which are relevant for qualification the Qualified Bidder no longer meets the qualification requirements, the Bidder's Qualified status may be revoked and the Bidder will be removed from the Bidders List.

The Qualified Bidder will be notified thereof in writing or by email.

## **§ 6 Revocation of Qualified Status for Good Cause**

- (1) THE is entitled to immediately revoke any Qualified Bidder's Qualified status and to immediately remove such Qualified Bidder at any time for good cause, especially in case of a breach of the regulations in § 4 para. 3 of these Rules.
- (2) Revocation shall be in writing or electronically by email.

## **§ 7 Validity of Qualification**

These Qualification Rules, including without limitation the admission, shall apply until the expiry of the framework agreement to be awarded.

## **§ 8 Data Protection**

As part of its commitment to quality, THE undertakes to handle all personal data of the bidder in a responsible manner. THE will collect, process and use the personal data provided by the bidder only to the extent permitted by law for use in the context of this procurement. THE will only process or use of the data provided by the bidder for other purposes where the user has given its express consent or if THE is legally obliged to do so. Further information on data protection is contained in the THE's data protection declaration (provided on its website).

## **§ 9 Confidentiality**

- (1) The Parties shall treat as confidential and not disclose or make available to third parties any and all information which they obtain in connection with the admission and which has been designated as confidential (hereinafter referred to as "Confidential Information") subject to the provisions in the following paragraph, unless the other Party has given its prior written consent. The Parties undertake to use such Confidential Information exclusively for the purpose of executing the respective contract.
- (2) Each Party shall have the right to disclose Confidential Information received from the other Party without the latter's written approval
  - (a) to an affiliated company, provided that the latter is under a similar obligation of confidentiality
  - (b) to its shareholders, agents, advisors, banks and insurance companies, if and to the extent that disclosure is necessary for the proper performance of the contractual obligations, and such persons or companies have themselves previously undertaken to keep the information confidential or are bound by a professional obligation of confidentiality, or
  - (c) to the extent that such Confidential Information is already legitimately known to the receiving Party at the time of receipt from the disclosing Party or is already in the public domain or becomes available to the public other than by act or omission of the receiving Party or is required to be disclosed by a Party pursuant to a provision of law or a court or administrative order or a request by the regulatory authority.
- (3) The obligation to maintain confidentiality shall expire two (2) years after receipt of the Confidential Information if no admission is granted under these Qualification Rules. The documents shall then be destroyed. Otherwise, the confidentiality obligations shall also apply to the Confidential Information received as part of the admission.

## § 10 Liability

- (1) THE shall only be liable hereunder in the event of a breach of a material obligation, the breach of which either places at risk the achievement of the



Qualification Rules's purpose and/or the fulfilment of which is a prerequisite for the proper performance of the Qualification Rules, and on the fulfilment of which the Bidder regularly relies and may rely (hereinafter referred to as "Cardinal Obligation"). Moreover, liability hereunder shall be limited to the foreseeable damage, which is typical of these Qualification Rules.

- (2) THE shall not be liable if the circumstances giving rise to a claim against THE
  - (a) are based on an unusual and unforeseeable event over which THE has no control and the consequences of which could not have been avoided despite the exercise of due care, or
  - (b) were brought about by THE complying with a legal obligation.
- (3) Moreover, THE shall not be liable for failures or disruptions in the technical infrastructure outside the THE's sphere of responsibility (force majeure).
- (4) The aforementioned limitations of liability as set out in paragraphs (1) to (3) above shall not apply in the case of
  - (a) damage due to intent or gross negligence,
  - (b) personal injury (injury to life, body, health),
  - (c) as well as the assumption of guarantees.
- (5) The foregoing shall be without prejudice to liability under mandatory statutory provisions (including without limitation the Product Liability Act).

## **§ 11 Applicable law, place of jurisdiction, final provisions**

- (1) These Qualification Rules are available only in English language.
- (2) These Qualification Rules shall be governed by, and construed and interpreted in accordance with, the law of the Federal Republic of Germany to the exclusion of the UN Convention on the International Sale of Goods (CISG).
- (3) The place of jurisdiction for all disputes between THE and the Bidder arising from these Qualification Rules shall be Düsseldorf/Germany, insofar as such an agreement on the place of jurisdiction is permissible.
- (4) There are no verbal collateral agreements in addition to these Qualification Rules.
- (5) If any provision of these Qualification Rules is or becomes invalid or unenforceable, the remaining provisions shall remain in full force and effect. Instead of such invalid or unenforceable provision, a new valid provision coming

as close as reasonably possible to the purpose of the invalid provision shall be deemed to have been agreed. In the event of any loopholes or gaps herein, a provision shall be deemed to have been agreed which corresponds to what would have been agreed in accordance with the purpose of these Qualification Rules had the Parties considered the matter.

## Appendix 1

### Application for Admission as a Bidder of Supplying LNG to Trading Hub Europe GmbH

Trading Hub Europe GmbH

Email: LNGBeschaffung@tradinghub.eu

Bidder:

Name/full company name including legal form:

Street/street No:

Postcode and city/town:

Country:

Telephone:

Website/email:

Object of business:

DVGW or another code in the capacity as Balancing Group Manager:

Contact person for operational handling (24/7):

Telephone (24/7):

Email:

Valid Balancing Group Contract of the "FzK" type in the market area of Trading Hub Europe with access to the Bidder's VTP:

Legally binding declaration:

The Bidder hereby affirms:

- that all information provided in this application and all documents submitted in connection therewith are true and correct, and that they reflect the current situation of the business and the current business practices as applied in said business;
- that it accepts the Qualification Rules of Trading Hub Europe GmbH as amended.
- in accordance with the laws and regulations on the observance of sanctions, the provider, its employees, its vicarious agents and the management is not a sanctioned person and therefore not on any sanction lists;
- that there are no grounds for exclusion pursuant to Section 142 No. 2 in conjunction with Sections 123, 124 of the Act against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen – GWB) against the Bidder;
- that the Bidder is in a position to ensure a safe, secure and reliable supply of LNG including its regasification, transportation and storage in a gas storage facility.

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Place, date

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Bidder's signature / company seal