Terms and conditions for the invitation to tender for the sale and supply of fuel gas quantities for the GASCADE Gastransport GmbH, Kassel

(hereinafter referred to as “INVITATION TO TENDER CONDITIONS”)

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Preamble

GASCADE Gastransport GmbH, Kassel (hereinafter referred to as “GASCADE”) requires fuel gas quantities for operating of its gas transportation system. These INVITATION TO TENDER CONDITIONS form the legal basis for the participation of natural gas traders (hereinafter referred to as the “FUEL GAS SELLER(S)” in GASCADE’s invitation to tender procedure.

Section 1: Subject matter of the INVITATION TO TENDER CONDITIONS

(1) These INVITATION TO TENDER CONDITIONS define in particular the procedure for, and the requirements for FUEL GAS SELLERS to take part in, the invitation to tender relating to the sale, supply and commercial processing/accounting of fuel gas quantities.

(2) The offer shall be based on the Master Agreement relating to the sale, supply and commercial processing/accounting of fuel gas quantities and an individual agreement (hereinafter referred to as “individual agreement”) as an annex to the Master Agreement, which GASCADE will conclude with the FUEL GAS SELLER awarded a contract. The individual agreement to the Master Agreement will govern in particular the pricing of the fuel gas quantities to be procured. The actual fuel gas quantity will then be purchased, if required, through an acceptance procedure and on the basis of the fuel gas quantities allocated by GASPOOL to a balancing group of the FUEL GAS SELLER.

(3) The invitation to tender procedure is divided into the pre-qualification phase, tender and bidding phase, and contract award phase.

Section 2: Pre-qualification phase

(1) The pre-qualification phase shall commence after publication of these INVITATION TO TENDER CONDITIONS on 12 August 2019. It shall end with GASCADE’s admission of a FUEL GAS SELLER as a bidder in accordance with (9) sentence 1 of this Section 2 or rejection of a FUEL GAS SELLER in accordance with (9) sentence 2 of this Section 2. The admission or rejection of a FUEL GAS SELLER as a bidder relates to the submission of offers by the FUEL GAS SELLER and inclusion of them by GASCADE in the invitation to tender within the tender and bidding phase.

(2) The FUEL GAS SELLERS are obliged to submit all the documents required for pre-qualification in accordance with (5) of this Section 2 by no later than **12 noon on 16 August 2019**. The pre-qualified FUEL GAS SELLERS shall be given authorisation to submit offers within the tender and bidding phase.

(3) Admission as a bidder in accordance with (1) sentence 3 of this Section 2 shall apply for the calendar year 2019 to all tender and bidding phases staged by GASCADE in that period of time, if the FUEL GAS SELLER consents to further invitations to tender by giving a written declaration in accordance with (5) a) of this Section 2 and GASCADE does not revoke its admission as a bidder in the meantime. Admission as a bidder can be revoked at any time if there is good cause or if there is a change to the requirements demanded of FUEL GAS SELLERS for being admitted to a new invitation to tender procedure. Good cause shall exist in particular if the FUEL GAS SELLER has knowingly made false statements or has submitted incorrect documents and if the FUEL GAS SELLER no longer meets the requirements for pre-qualification.

(4) If a FUEL GAS SELLER is rejected as a participant in the invitation to tender procedure, it can gain admission as a bidder at any time up to the end of the bidding phase by taking part in a pre-qualification phase again and successfully completing it. In order to be able to take part in a pre-qualification phase, there must be a demonstrable change in the circumstances on the part of the FUEL GAS SELLER compared to those examined in the previous pre-qualification phase.

(5) The FUEL GAS SELLER shall submit the following documents to GASCADE in order to be admitted as a bidder:

a) A written or electronic declaration on the request to take part in a pre-qualification phase, including the declaration of consent to the fact that these INVITATION TO TENDER CONDITIONS apply in full and without reservation.

b) An up-to-date excerpt from the commercial register or, in the case of non-German FUEL GAS SELLERS, appropriate documents in German or English which is or are not older than three months, a list of shareholders if the FUEL GAS SELLER or a shareholder of the FUEL GAS SELLER has the legal form of a limited liability company (GmbH), and audited annual financial statement documents (balance sheet, income statement, statement of cash flows, and management report) for the last completed fiscal year.

c) A list of contact data to enable initiation of the the data communication required for operational handling and other additional company information (bank details, tax number, etc.).

(6) The FUEL GAS SELLER shall immediately report any changes to the documents specified in (5) of this Section 2 during the entire invitation to tender procedure.

(7) GASCADE shall conduct a credit check on the basis of the documents submitted by the FUEL GAS SELLER pursuant to (5) of this Section 2 and shall inform the FUEL GAS SELLER about the results of the credit check.

In principle, the FUEL GAS SELLER shall be classified in a risk category on the basis of the published credit rating of the agencies Creditreform and Dun & Bradstreet or a similar agency, as follows.

Risk category	**D&B risk indicator**	**Creditreform risk class**	**Pre-qualification**
A: low risk	1 to 3	I-II	Passed
B: higher risk	> 3	> II	Failed

If there are multiple credit ratings/classifications, the credit rating or classification reflecting the greatest risk shall be authoritative in determining the risk category.

GASCADE reserves the right to reclassify the FUEL GAS SELLER into another risk category if the annual financial statement documents submitted by the FUEL GAS SELLER reveal a different assessment to that communicated by D&B and/or Creditreform. Moreover, GASCADE shall be authorised to reclassify the FUEL GAS

SELLER into another risk category throughout the invitation to tender procedure if necessary due to changes reported in accordance with (6) of this Section 2. GASCADE shall always give the FUEL GAS SELLER opportunity to state its view in brief in the event of reclassification.

(8) The minimum communication requirements needed for operational handling shall be deemed to have been fulfilled

(a) if the FUEL GAS SELLER can be reached every business day at a central point of contact with staff that can speak German or English (contact persons). The point of contact must be able to be reached by phone under just one telephone number and at least one further communication channel (e-mail or fax) and

(b) if the FUEL GAS SELLER is able to send nominations and receive confirmation of nominations in accordance with DVGW worksheet G 2000 and

(c) if the FUEL GAS SELLER has a balancing group that is valid for the term of the agreement in the GASPOOL market area.

"Business days" are all days that are not Saturdays, Sundays or public holidays. If a day is a public holiday in one German federal state, it shall be regarded as a public holiday nationwide. 24 December and 31 December shall be regarded as public holidays every year.

(9) If a FUEL GAS SELLER has submitted the documents specified in (5) of this Section 2 in full and on time and fulfils the requirements defined in (8) of this Section 2, GASCADE shall admit the FUEL GAS SELLER as a bidder and send it the Master Agreement in accordance with Section 1 (2) so that the FUEL GAS SELLER can sign it.

If the FUEL GAS SELLER has not fulfilled the requirements under the above sentence, GASCADE shall notify the FUEL GAS SELLER applying to participate that it has been rejected and shall return the submitted documents. GASCADE shall endeavour to notify the FUEL GAS SELLER of the result of the pre-qualification review within ten (10) business days.

(10) If the FUEL GAS SELLER does not have sufficient creditworthiness, the latter can be guaranteed by adequate security being furnished. Adequate security shall be guarantees or irrevocable and unconditional surety, waiving the benefit of discussion and the right to contestability and eligibility for offset (if the claims are not disputed or an enforceable judgement has been rendered in respect of them). A credit institution issuing this security must have at least a risk category A on the basis of the published credit rating of the agencies Creditreform and Dun & Bradstreet or a similar agency. Damage of €250,000 up to the end of the agreement shall be assumed in determining whether the security is adequate.

If a FUEL GAS SELLER has to furnish security, it shall do so by the end of the tender and bidding phase in accordance with Section 3 (1). Offers by FUEL GAS SELLERS who do not furnish security despite being classified in risk category B (higher risk) shall not be considered in the contract award phase.

If the rating of a credit institution that issues security is lowered by one of the agencies with the result that the requirements demanded of the credit institution in accordance with the above sentence are no longer fulfilled, GASCADE shall have the right to demand that the FUEL GAS SELLER replace the security.

GASCADE reserves the right to demand other or additional security to cover the credit risk at any time if the FUEL GAS SELLER is subsequently reclassified into another risk category in accordance with (7) of this Section 2 during the invitation to tender procedure.

Existing security shall be released, replaced or reduced at the request of the FUEL GAS SELLER if it is no longer required to cover the credit risk after entire order quantities have been settled.

Section 3: Tender and bidding phase

(1) The pre-qualification phase is followed by the tender and bidding phase for lots of fuel gas quantities. The tender and bidding phase shall last until **12 noon on 23 August 2019**.

(2) This invitation to tender represents a request from GASCADE for the FUEL GAS SELLERS who have been admitted as bidders in accordance with Section 2 (9) sentence 2 at the time of contract award as specified in Section 4 (2) and whose admission as a bidder has not been subsequently revoked in accordance with Section 2 (3) to submit one or more offers for the lots for concluding individual agreements to the Master Agreement in accordance with Section 1 (3).

(3) In the tender and bidding phase in accordance with (1) of this Section 3, the FUEL GAS SELLERS defined in accordance with (2) of this Section 3 can issue a binding offer for the sale, supply and commercial processing/accounting of fuel gas quantities. An offer shall be submitted by a signed Master Agreement and a completed and signed individual agreement being sent as a PDF file by e-mail or by post to the contact person named in the individual agreement. Offers that are not submitted in the tender and bidding phase or that are incomplete shall be deemed not to have been submitted and shall not be considered.

(4) An offer can be modified in writing or withdrawn up to the end of the tender and bidding phase.

Section 4: Contract award phase

(1) The contract award phase shall commence when the tender and bidding phase ends. During the contract award phase, GASCADE shall have the option of bindingly accepting the offers which FUEL GAS SELLERS who have been admitted as bidders have submitted in the tender and bidding phase. The contract award phase shall end at **12 noon on 3 September 2019**.

(2) GASCADE shall chose which offer to accept in a non-discriminatory manner and taking into account the objectives of reliable and secure network operation, safeguarding economically sensitive information, and cost-effectiveness at the time specified in the invitation to tender documents (time of contract award). The FUEL GAS SELLER quoting the lowest handling fee in its offer shall win the tender. “Handling fee” is the fee in accordance with Article 7 (4) of the Master Agreement charged in addition to the spot price for supplying and commercial processing/accounting for the fuel gas quantities. If the submitted offers quote the same prices, the time at which the offers are received shall determine which has precedence. In such a case, the offer received earliest shall be accepted. GASCADE shall notify the FUEL GAS SELLER who wins the bid that it has bindingly accepted the offer in accordance with Section 5 (2). As soon as the FUEL

GAS SELLER that wins the bid receives the notification in accordance with Section 5 (2), it shall send GASCADE the signed Master Agreement referred to in Section 3 (3) and the signed individual agreement referred to in Section 3 (3) in duplicate by post, unless it has already done so in the tender and bidding phase. GASCADE shall return one signed version of the Master Agreement and one signed version of the individual agreement.

(3) An invitation to tender procedure shall end when an offer is accepted by GASCADE. Irrespective of whether an agreement is concluded, the FUEL GAS SELLERS shall be bound to their offer, in accordance with Sections 145 and 148 of the German Civil Code (BGB), for the period of time of the contract award phase to which their offer relates.

Section 5: Duties to provide information

(1) The FUEL GAS SELLERS shall be obliged to notify GASCADE about all changes to circumstances of relevance to their admission as bidders in accordance with Section 2 immediately and without being requested to do so.

(2) GASCADE shall notify the FUEL GAS SELLERS who have issued binding offers during the tender and bidding phase and have not modified or withdrawn them in accordance with Section 3 (4) about the outcome of the invitation to tender procedure in suitable form.

(3) In cases defined in Section 2 (3) and Section 8 (1) and (3), GASCADE shall notify the FUEL GAS SELLER immediately.

Section 6: Confidentiality

(1) GASCADE undertakes to treat all relevant information it receives during this invitation to tender procedure with confidentiality. Relevant information shall be in particular the contents of the offers from the bidding FUEL GAS SELLERS and company-related information in connection with completion of the pre-qualification phase. Article 6 of the Energy Industry Act (EnWG) shall not be affected. Relevant information may be disclosed to an affiliated company as defined in Article 15 of the Stock Corporation Act (AktG).

(2) GASCADE shall be authorised to collect, store and use information it has obtained from the FUEL GAS SELLERS as part of an invitation to tender procedure in compliance with data protection legislation, and to disclose such data to third parties, where this is required to ensure proper handling of the procedure in question.

(3) Rights and obligations under this provision shall also apply to third parties engaged by GASCADE.

(4) The obligation to maintain confidentiality shall remain in force for a period of 12 (twelve) months after the respective invitation to tender procedure ends.

Section 7: Liability

GASCADE shall be liable for loss or damage due to injury to life, body or health in accordance with the statutory provisions. GASCADE shall be liable for other loss or damage only if it has been caused by GASCADE, a legal representative, a contractor or an agent through intent or gross negligence or there has been a culpable violation of

cardinal obligations. Cardinal obligations are obligations that must be fulfilled so that these INVITATION TO TENDER CONDITIONS can be implemented and on the fulfilment of which the FUEL GAS SELLERS taking part in the invitation to tender may usually rely. If cardinal obligations are violated, liability shall be limited to typical, foreseeable loss or damage.

Section 8: Validity, termination, amendments

(1) These INVITATION TO TENDER CONDITIONS can be amended by GASCADE at any time with future effect without the need for GASCADE to give reasons for doing so.

(2) If invitation to tender procedures overlap in time, the INVITATION TO TENDER CONDITIONS that applied at the start of the procedure's respective phase shall apply.

(3) GASCADE shall be authorised to amend these INVITATION TO TENDER CONDITIONS with immediate effect if they need to be amended to comply with relevant laws or regulations or legally binding stipulations by national or international courts and authorities and the generally accepted rules of technology. If the amendment results in material economic disadvantages for the FUEL GAS SELLER with regard to an ongoing invitation to tender procedure, the FUEL GAS SELLER shall be entitled to terminate its participation in that invitation to tender procedure.

Section 9: Miscellaneous

(1) These INVITATION TO TENDER CONDITIONS shall be governed solely by German law, to the exclusion of international private law and the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction shall be Kassel, Germany.

(2) GASCADE shall not charge a FUEL GAS SELLER any fee for participating in an invitation to tender procedure. Each participant in an invitation to tender procedure shall itself bear the costs it incurs in the procedure.

(3) If any of the provisions of these INVITATION TO TENDER CONDITIONS are or become invalid or unenforceable, the other provisions of the INVITATION TO TENDER CONDITIONS shall remain in full force and effect.