

# GSB GAS STORAGE PRIMARY CAPACITY 2018 AUCTION RULES

## INTRODUCTION

These rules govern the qualification for, participation in and consummation of the auction of Standard Bundled Units of gas storage capacity at **Gas Storage Bergermeer** (the Netherlands), as defined in the Standard Storage Services Agreement. The Auction is scheduled for 22 February 2018, on which day bids can be submitted via e-mail to a duly appointed Notary at Allen & Overy.

Successful bids will result in binding primary capacity agreements between the bidder and **TAQA Gas Storage B.V.**, the commercial operator of Gas Storage Bergermeer, a company under the laws of the Netherlands, with registered offices in Alkmaar, company no. 27154985 ("GSB").

**Allen & Overy LLP**, a limited liability partnership incorporated in England and Wales, with registered offices at Apollolaan 15, 1077 AB, Amsterdam, the Netherlands, company no. 34368587 ("Allen & Overy") will conduct and administer the Auction.

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

For purposes of these Auction Rules:

"Aggregate Demand" shall mean the sum of all Quantities demanded by all Bidders.

"Auction" shall mean the auction as further specified in these Auction Rules.

"Auction Date" shall have the meaning specified in Section 5.2.

"Auction Rules" shall mean these auction rules.

"Bid" shall mean the submission by Bidder of demand for a stated Quantity of the SBUs stated in the e-mail to Allen & Overy.

"Bidder" shall have the meaning specified in Subsection 2.2.1.

"Bidder Limit" shall mean the maximum Quantity for a bidder, as determined by GSB.

"Business Day" shall mean a day (other than a Saturday or a Sunday) on which banks are open for business in The Netherlands.

"Cut Off Price" shall mean the lowest Price at which SBUs are allocated in the Auction.

"Gas Day" shall mean the period from 06:00 to 06:00.

"Instruction to Bidders" shall have the meaning specified in Section 3.1.

"Maximum Supply" shall have the meaning specified in Section 4.2.

"Customer" shall mean any, corporation, limited liability company, general or limited partnership, association, trust or other entity that wants to participate in the Auction.

"Price" shall have the meaning specified in Subsection 4.3.1.

"Primary Capacity Agreement" shall mean an agreement substantially in the form as per Annex II.

"Quantity" shall mean the quantity requested by a Bidder in a valid Bid, expressed in the number of SBUs as a whole number higher than zero (0).

"Reserve Price" shall have the meaning specified in Subsection 4.3.2.

"Storage Year 2018" shall mean the period from Gas Day 1 April 2018 up to and including Gas Day 31 March 2019.

“SBU” shall mean Standard Bundled Unit of gas storage capacity at Gas Storage Bergermeer, per the terms and conditions of the Standard Storage Services Agreement.

“Standard Storage Services Agreement” shall mean the Standard Storage Services Agreement for the Gas Storage Bergermeer Facility between the Bidder and GSB (as per the model published on GSB’s website).

1.2 In these Action Rules:

- 1.2.1 References to “Article”, “Section”, “Subsection”, and “Annex” refer to the corresponding article, section, subsection or annex of these Auction Rules unless otherwise specified;
- 1.2.2 The headings of Articles, Sections, Subsections and the Annexes are provided for convenience only and will not affect their interpretation;
- 1.2.3 The words “include” or “including” are to be construed without limitation to the generality of the foregoing;
- 1.2.4 Any reference to time is to Dutch local time; and
- 1.2.5 Unless the context requires otherwise, the singular shall include the plural and vice versa.

## **2. QUALIFICATION PROCESS**

2.1 Any Customer wishing to qualify for participation in the Auction shall:

- 2.1.1 request GSB to be admitted as a bidder;
- 2.1.2 have entered into a Standard Storage Services Agreement for the Gas Storage Bergermeer Facility;
- 2.1.3 provide to GSB any information GSB reasonably requires to establish the Bidder Limit;
- 2.1.4 accept and agree to these Auction Rules and sign Annex I to these Auction Rules;
- 2.1.5 provide to GSB a valid power of attorney demonstrating its authority to submit binding Bids and enter into a binding Primary Capacity Agreement with GSB.

2.2 Following a request to be admitted as Bidder, GSB may:

- 2.2.1 by written confirmation admit a Customer in the Auction, at which point it becomes a “Bidder”; the confirmation shall state the Bidder Limit for that Bidder;
- 2.2.2 request revised and/or additional documents within a set time period, and, upon review of such documents, admit or refuse a Customer in the Auction;
- 2.2.3 refuse a Customer in the Auction. Any such refusal shall be based on objective criteria, and the reason shall be provided.

2.3 The requirements set out in Section 2.1 must be met six (6) Business Days prior to the Auction Date. GSB may at its sole discretion waive this timeline in exceptional circumstances.

2.4 Continued Compliance and revocation of admission as Bidder

- 2.4.1 Bidder shall notify GSB in writing of any change in any information submitted for qualification, promptly upon becoming aware of such change. Bidder shall promptly furnish to GSB any additional information which GSB may reasonably request.
- 2.4.2 GSB may at any time revoke admission of Bidder as participant in the Auction if:

- a. Bidder does not satisfy, or no longer satisfies, the qualification criteria; or
- b. Bidder breaches any of its obligations under these Auction Rules.

2.5 A Customer admitted to the Auction as a Bidder is not obliged to submit a Bid.

### **3. INSTRUCTIONS TO BIDDERS AND RISK OF LOSS OR DELAY OF E-MESSAGES**

3.1 At least three (3) Business Days before the Auction Date (or, if later, promptly following admission as Bidder), GSB shall provide the contact persons identified in acknowledgment and acceptance forms (Annex I) with instructions on the conduct of the Auction (the "Instruction to Bidders"). These regard in particular the method and contents of communications between Bidder, Allen & Overy and GSB during the Auction and the secure transmission of Bids.

3.2 GSB and Allen & Overy make no representation or warranty on the continuous availability of systems for reception or saving of Bids in case of technical or other problems beyond their reasonable control.

### **4. THE AUCTION OFFERING**

#### **4.1 Product Offered**

The product offered in the Auction is an SBU for the Storage Year 2018, which comprises of rights to have gas injected, to keep gas in store and to withdraw gas, with the following characteristics (as defined in the Standard Storage Services Agreement):

- Space = 1000 kWh;
- Withdrawal Capacity = 0.579 kW;
- Injection Capacity = 0.427 kW;

#### **4.2 Maximum Supply**

The maximum total number of SBUs (the "Maximum Supply") offered and allocated in the Auction is three million two hundred and fifty thousand (3,250,000).

#### **4.3 Price**

4.3.1 The Price for SBUs for Storage Year 2018 in this Auction shall be in Euro (€) per SBU (fixed, i.e. non-indexed) (the "Price").

4.3.2 A reserve price applies to the SBUs (the "Reserve Price"). The Reserve Price shall be one euro and fifty cents per SBU (1.50 €/SBU). Bids below the Reserve Price are invalid and shall be disregarded.

### **5. THE AUCTION PROCESS**

5.1 Allen & Overy shall conduct the Auction and monitor compliance with the Auction Rules.

5.2 The date of the Auction (the "Auction Date") is 22 February 2018.

5.3 All communications between Bidder and Allen & Overy shall be made in accordance with the rules set forth in the Instructions to Bidders (including rules pertaining to message content, message format and means of communication).

5.4 The Auction shall be conducted over one (1) round.

5.5 The round will start at 11:00 hrs. and will close at 12:00 hrs. (Dutch local time). Bids received outside this time window shall be rejected.

5.6 Bids are made as follows:

- 5.6.1 Each Bidder can submit up to three (3) separate Bids in a single e-mail, whereby each Bid shall include a Quantity “Q” and a Price “X”:
- a. the Quantity will be expressed as a non-negative whole number representing the number of SBUs the Bidder wishes to acquire; and
  - b. the Price will be expressed in Euro (€) as a non-negative number with up to two decimals.
- 5.6.2 During the Auction the Bidder may change each of its Bids by submitting a new e-mail as per subsection 5.6.1. The content of such e-mail will replace any previously sent bidding e-mail by this Bidder in its entirety, so the Bid or Bids in such e-mail shall replace all previous Bid or Bids made by the Bidder, regardless whether the number of Bids, the Quantity or the Price in the later e-mail is higher or lower.
- 5.6.3 If a Bidder exceeds its Bidder Limit, its Bids are sorted from the highest Price to the lowest Price. The Quantity of the lowest priced Bid that causes the Bidder Limit to be exceeded will be reduced to a Quantity whereby the Bidder Limit is no longer exceeded. Lower priced Bids, if any, shall not constitute valid Bids. GSB will disclose the Bidder Limit for each Bidder to Allen & Overy ultimately on the Auction Date on 10.00 hrs.
- 5.7 Bids (or changes to Bids) received outside the time period for receipt of Bids, and Bids (or changes to Bids) that do not meet the conditions of Section 5.6 above or any other part of the Auction Rules are not valid and will be rejected. Allen & Overy shall notify any Bidder that has submitted an invalid Bid of the rejection thereof, stating the reasons.
- 5.8 Allen & Overy will use reasonable efforts to send, via e-mail, a confirmation of receipt of every Bid. A confirmation of receipt does not constitute confirmation of validity of Bids.
- 5.9 It is Bidder’s entire and sole responsibility to ensure that a valid Bid is received within the specified timeline. In particular, Bidder’s attention is drawn to the fact that there may be some time lag between the submission of its Bid and the receipt by Allen & Overy. Bidder shall ensure that all its equipment used in connection with the Auction operates properly.
- 5.10 Each of the valid Bids being received and logged by Allen & Overy at the close time of the round shall be a firm and irrevocable commitment to acquire the stated Quantity of SBUs at the stated Price.
- 5.11 At the end of the Auction, SBUs will be allocated to the Bidders, as follows and with all of the following conditions satisfied:
- a. a Bid with a Price lower than the Reserve Price will not be taken into account for the allocation of SBUs;
  - b. no more SBUs will be allocated than the Maximum Supply;
  - c. SBUs shall be allocated to valid Bids in order of the value of the Price (“X”) of the Bids, whereby a Bid with a higher Price will be allocated first and with priority over a Bid with a lower Price;
  - d. if the Aggregate Demand exceeds the Maximum Supply, those Bids with a Price equal to the Cut Off Price shall be allocated SBUs pro rate their Quantity (“Q”), rounded to the nearest whole number of SBUs, whereby any remaining SBU following rounding shall be allocated to the Bid with the highest Quantity.
- 5.12 After the allocation, Allen & Overy will use reasonable efforts to confirm the results of the Auction via email to the Bidders the same day before 14:00 hrs.

5.13 Allocation of SBUs in accordance with Section 5.11 above constitutes a Primary Capacity Agreement under the Standard Storage Services Agreement, for such SBUs, at the Pricing as per the allocated Bid. GSB will issue a confirmation in the form of Annex II hereto, signed by GSB only. Sections 5.10, 5.11 and 5.12 create binding obligations between GSB and the Bidder.

## **6. MISCELLANEOUS**

### **6.1 Conduct Rules**

6.1.1 The Bidder shall at all times observe high standards of integrity and fair dealing and high standards of market conduct and act with due skill, care and diligence when participating in the Auction.

6.1.2 It is the duty of the Bidder to behave in a fair and orderly manner in the Auction, with due observation of the interest of all other Bidders.

6.1.3 The Bidder is required to comply and act in accordance with all applicable laws and regulations, including, but not limited to, articles 3 and 5 of the Regulation No. 1227/2011 on energy Market Integrity and Transparency ("REMIT").

6.1.4 Allen & Overy and GSB have the right to supply the competent authority with all data and information of the activities carried out by Bidders under the Auction Rules and all other data and information the provision of which is necessary either under a formal request made to Allen & Overy or GSB or to comply with its obligations towards those authorities or where disclosure is required under applicable laws.

6.1.5 Allen & Overy and GSB are entitled to carry out (routine) enquiries or investigations into the behaviour of a Bidder. The Bidder is obliged to provide full cooperation with an enquiry or investigation.

### **6.2 Postponement or Termination of Auction**

6.2.1 GSB may cancel, postpone or suspend the Auction.

6.2.2 GSB may, if reasonably necessary for technical or operational reasons or in the event of manifest collusion, terminate the Auction, and GSB shall promptly inform Bidders in case of termination of the Auction.

6.2.3 GSB shall promptly inform Bidders and the market of any cancellation, postponement, suspension or termination. No Bidder shall have any claim for damage or losses or any right for performance of the Auction in the event of cancellation, postponement, suspension or termination.

### **6.3 Amendment of these Auction Rules**

6.3.1 At any time before the fifth (5<sup>th</sup>) Business Day preceding the Auction Date, GSB may amend these Auction Rules and GSB shall immediately inform the market and notify Bidders of such decision.

6.3.2 Bidders shall be deemed to consent to an amendment of these Auction Rules if they do not give notice of withdrawal within three (3) Business Days following the receipt of the notice referred to in Subsection 6.3.1. If such a notice of withdrawal is received by GSB, the Bidder shall no longer be allowed to participate in the Auction.

### **6.4 Following the Auction GSB may release the following data to the market:**

- a. the Cut Off Price;
- b. the Aggregate Demand;

- c. the weighted average Price for SBUs allocated in this Auction; and
- d. the total amount of SBUs allocated.

6.5 GSB and Allen & Overy shall protect the confidentiality of the content of Bids submitted by Bidder during the Auction.

6.6 Rights resulting from the Auction Rules and the Auction are not and cannot be transferred or assigned (other than rights of GSB and Allen & Overy). SBUs are transferable as per the terms of the Standard Storage Service Agreement.

## **7. GOVERNING LAW AND DISPUTE RESOLUTION**

7.1 These Auction Rules are governed by and construed in accordance with the laws of The Netherlands.

7.2 Any dispute, controversy or claim arising out of or in connection with these Auction Rules shall be finally settled by arbitration in accordance with the Arbitration Rules of the Netherlands Arbitrage Instituut. Jurisdiction by any other court is excluded. The arbitral tribunal shall be composed of three arbitrators. The place of arbitration will be The Hague. The arbitral tribunal will award in accordance with the rules of law. The arbitral procedure will be conducted in the English language. The possibility of binding opinion (*bindend advies*) as foreseen in aforementioned Rules will be excluded.

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**ANNEX I**  
**ACKNOWLEDGEMENT AND ACCEPTANCE OF**  
**THE GSB GAS STORAGE PRIMARY CAPACITY**  
**2018 AUCTION RULES (THE “AUCTIONS RULES”)**

**The undersigned has taken knowledge of the Auction Rules and undertakes, covenants to and agrees with Allen & Overy and GSB:**

1. to comply with the Auction Rules and the Instructions to Bidders;
2. to refrain from entering into (and represents that it has not entered into) any agreement or arrangement of any kind with any other (potential) Bidder (other than affiliates) concerning the Auction or participation in the Auction;
3. to continue to keep confidential (and represents that it has kept confidential) all information received from GSB in connection with the Auction;
5. to continue to act (and represents that it has acted) in the Auction, as principal (and not as agent or in any other capacity, fiduciary or otherwise); and
6. that GSB shall make future notifications to it regarding the Auction solely to the following contact person (please insert details):

Contact person:

Title:

Contact address:

Contact tel.:

Email address:

**Agreed by:**

Signature:

Company Name: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ANNEX II**  
**FORM OF PRIMARY CAPACITY AGREEMENT**

This Primary Capacity Agreement is issued on [ ] between:

(1) **GSB GAS STORAGE B.V.**, a company duly incorporated in The Netherlands and registered at the trade registry with number 27154985 whose principal place of business is Alkmaar, The Netherlands ("**GSB**"); and

(2) [ ], (the "**Customer**"),

**WHEREAS:**

GSB and the Customer are party to a Standard Storage Services Agreement ("**SSSA**") in respect of GSB Facility; and at the SBU Auction held in February 2018, the Customer has purchased Capacity from GSB and GSB has sold such Capacity to the Customer.

**IT IS HEREBY AGREED** as follows:

**1. SALE AND PURCHASE OF CAPACITY**

At the SBU Auction held in February 2018, the Customer has purchased from GSB and GSB has sold to the Customer standard bundled units of Capacity at the GSB Facility ("**SBU**") in the number, for a term, for SBU Capacity Fee and at other conditions as specified below. This Primary Capacity Agreement is signed by GSB only and issued as confirmation.

**2. CONDITIONS**

Term

Start: 01 April 2018 06:00 Hour (LET) (start of the Hour)  
End: 01 April 2019 06:00 Hour (LET) (start of the Hour),  
unless terminated earlier in accordance with the SSSA.

Capacity

Number of SBU [ ] ([ ])  
A SBU consists of:  
Injection Capacity: 0.427 kW  
Space: 1000 kWh  
Withdrawal Capacity: 0.579 kW

SBU Capacity Fees

The SBU Capacity Fee is: [ ] ([ ]) per SBU.

SSSA

The SSSA govern the conditions of use in respect of the Capacity, and this Primary Capacity Agreement forms part of the SSSA. All capitalised terms used and not otherwise defined in this Primary Capacity Agreement shall have the meanings ascribed to them in the SSSA. "Gas Storage Year" and "Storage Year" have the same meaning.

**[Signed by GSB]**