



**NET4GAS, s.r.o.**

**GAS SUPPLY 2020**

**TENDER DOCUMENTATION**

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## 1 SUBJECT OF PUBLIC (SECTOR) PROCUREMENT

### 1.1 Public (Sector) Contract Title and Contracting Entity

The public contract "Gas Supply in 2020" is to be awarded by NET4GAS, s.r.o. in open procedure in accordance with Section 3(b) of Act No 134/2016 Coll., on public procurement, as amended (the "Act"). Reg. no. Z2018-023509

NET4GAS, s.r.o. (the "Contracting Entity" or "N4G") is a gas transmission system operator (TSO) holding an exclusive license for gas transmission in the Czech Republic. It operates more than 3,800 km of pipelines.

Information identifying the Contracting Entity:

NET4GAS, s.r.o.

Registered office: Na Hřebenech II 1718/8, Postal Code: 140 21, Prague 4

ID No.: 272 60 364

Incorporated in the Commercial Register by: Municipal Court in Prague, Section C, File No. 108316

Contracting Entity Profile Link: <https://www.tenderarena.cz/profily/NET4GAS>

### 1.2 Basic Information and Subject of Performance

The subject of performance is a purchase of quantities of natural gas by Contracting entity for captive consumption in accordance with Section 58(1)(j) of the Energy Act, mainly for consumption of the compressor stations CS Kouřim, Kralice, Veselí and Břeclav. The bidder shall deliver gas according to requirement of the Contracting Entity. The maximum quantity of gas which the bidder will be required to supply per the term of contractual performance is 2,295 TWh. Gas supply will be organised as follows:

On every gas day D during the period of performance, the bidder shall supply the contracting entity with gas in a quantity corresponding to the nomination request received from the Contracting Entity by 10:00 a.m. on preceding calendar day D-1.

The Contracting Entity and the bidder shall confirm the quantity of gas delivered in given gas month by a delivery report. A delivery report shall be approved by the parties on the third day of the following gas month or on the first working day thereafter.

The Contracting Entity shall pay the bidder the consideration agreed for the supply of the gas.

If gas is not supplied in accordance with the conditions above, the bidder shall pay the Contracting Entity a contractual penalty of EUR 4 per each MWh of gas that is not supplied.

### 1.3 Classification of Subject of Public (Sector) Procurement

CPV 09123000-7 Natural gas

## 2 BASIC PARAMETERS OF PUBLIC (SECTOR) PROCUREMENT

- a) Each bidder shall become acquainted with the current wording of the Act and, when preparing and submitting their tender offer, shall proceed in accordance with the Act.
- Information and data referred to in the individual parts of this tender documentation and Annexes hereto define the mandatory requirements of the Contracting Entity in respect of contractual performance. The bidder shall respect those requirements fully and without exception when preparing its tender offer. Non-acceptance of the Contracting Entity's requirements (especially any changes to the draft agreement) will be regarded as a non-compliance with the tender terms, resulting in bidder's disqualification from the tendering procedure.
- b) In the event of any inconsistency between the text of the tender documentation and the draft agreement, the content of the draft agreement in Annex No. 1 to this tender documentation shall prevail. In the event of any inconsistency between the text of the tender documentation in Czech language and the tender documentation in English language, the Czech version shall prevail.
- c) The language of the tendering procedure will be Czech or English. Any and all correspondence between the bidder and the Contracting Entity relating to the public contract, the tender offer or participation of the bidder in the tendering procedure, as well as preparation of the actual tender offer which is to be prepared and submitted by the bidder in accordance with the tender documentation, shall also take place in the said languages.
- d) Printed materials and other documents attached to the tender offer, as appropriate, may be written in another language provided that the bidder provides an officially certified translation of the relevant passages into Czech or English. The obligation to attach an officially certified translation into Czech or English to printed materials or other documents does not apply to documents in Slovak.
- e) The Contracting Entity will not accept any alternative solutions.

## 3 TERM AND PLACE OF PERFORMANCE

- a) Term of the public procurement performance: **January 1, 2020 to January 1, 2021.**
- b) Place of the contract performance shall be the virtual trading point.

## 4 DEADLINE FOR TENDER OFFERS SUBMISSION

- a) Deadline for tender offers submission is **4. 11, 2019, 10:30 a.m.**
- b) The Contracting Entity reserves the right to extend the deadline for the submission of tender offers, as appropriate, where justified. In doing so, the Contracting Entity shall comply with the Act and shall notify bidders of the deadline extension via its website (see the Contracting Entity's Profile: <https://www.tenderarena.cz/profily/NET4GAS>).

## 5 OPENING OF TENDER OFFERS

- a) Tender offers in electronic form will be opened in accordance with the Section 109 of the Act after the deadline for submission of Tender offers.

## 6 TENDER OFFER SUBMISSION

- a) Please submit your tender bid for in writing in electronic form via the TENDERARENA electronic tool available at [www.tenderarena.cz](http://www.tenderarena.cz).
- b) The tender offer in electronic form may not exceed 200 MB, with a maximum of 100 MB for proof of qualification and a maximum of 100 MB for other tender documents. Tender offer must be processed through Acceptable File Formats, ie Microsoft Office (Word, Excel), Open Office, PDF, JPEG, GIF, or PNG.

Each Bidder is required to submit a Tender Offer in Czech or English language.

- c) Each tender offer shall contain the following documents, duly completed and signed by the person(s) empowered to act in the name or on behalf of the bidder:
  - (i) draft agreement signed by the person(s) empowered to act in the name or on behalf of the bidder;
  - (ii) document confirming the authority of the person(s) to act in the name or on behalf of the bidder;
  - (iii) documents proving the qualifications required under paragraph 8 of the tender documentation;
  - (iv) any other documents required by the Act or the Contracting Entity.

Tender offers not containing the above-mentioned documents will be deemed incomplete and the relevant bidder shall be disqualified from the tendering procedure. This will not be prejudicial to the Contracting Entity's right to request additional provision of the qualification documents pursuant to the provisions of Section 46 of the Act.

The Contracting Entity assumes no responsibility for any errors, omissions, or inconsistencies in a bidder's tender offer which arise because of the bidder's incorrect interpretation of the information referred to in the tender documentation.

- d) The Contracting Entity requires the following structure of the tender offer:
  - (i) a cover letter stating the identification and contact details of the bidder (company name/personal name, registered office, complete correspondence address, name of the officer appointed to handle the matters relating to this public contract, ID No., VAT ID No., telephone number, e-mail address);
  - (ii) contents of the file;
  - (iii) documents and information proving the qualifications under paragraph 8 of the tender documentation;
  - (iv) original draft agreement;
  - (v) document confirming the authority of the person(s) signing the agreement to act in the name or on behalf of the bidder (e.g. extract from the Commercial Register, power of attorney, an internal appointment);

- (vi) bank guarantee or proof of guarantee insurance, and/or copy of the bank order pursuant to paragraph 7 of the tender documentation;
  - (vii) data regarding subcontractors (including information as to what part of the public tender will be awarded to them) and/or agreement entered into with such subcontractor(s);
  - (viii) officially certified translations of the above arrangements into Czech or English where the texts concerned are in another foreign language (apart from Slovak); and
  - (ix) any other documents required by the Act or the Contracting Entity.
- e) Tender offers shall be delivered by the deadline for the submission of tender offers stated in paragraph 4 above. Otherwise, the Contracting Entity shall treat any tender offers submitted after the deadline for submission of tender offers as if they were not submitted.

## 7 COLLATERAL

- a) In order to secure its obligations arising from its participation in tendering procedure, the bidder shall provide the Contracting Entity with a collateral payment (security) of CZK 1,000,000 (one million Czech crowns).

The bidder may provide the collateral in any of the ways indicated in Section 41(3) of the Act.

- b) If the collateral is provided as a monetary amount credited to the bank account, it must be credited no later than on the day preceding the date of envelopes opening to the following bank account of the Contracting Entity:

Bank:	Československá obchodní banka, a.s.
Account Number:	17470543/0300
IBAN:	CZ82 0300 0000 0000 1747 0543
SWIFT:	CEKOCZPP
Account owner:	NET4GAS, s.r.o.
Variable symbol:	registration number of the contract in the Public Procurement Journal (Věstník veřejných zakázek).

Copy of the document proving that the amount has been deposited or transferred to the bank account shall form part of the offer.

- c) The bidder may provide the collateral also in form of bank guarantee or in form of guarantee insurance. The bidder shall ensure that both of the above tools remain valid for the entire term of the tender period. Should the bidder decide to provide the collateral using one of the methods envisaged in this paragraph, the original bank guarantee or insurance policy shall be included in the tender offer. The eligible bank or insurance company means any banks or insurance companies having a long-term rating from Standard & Poor's, Moody's or Fitch at least BBB- / Baa3.
- d) The bank guarantee or insurance policy shall be issued for the benefit of the Contracting Entity in accordance with Section 2029 et seq. of Act No 89/2012 Coll., the Civil Code, as amended (hereinafter referred to only as the "Civil Code") in the case of bank guarantee, and Section 2758 et seq. (in particular Section 2868) of the Civil Code, in the case of insurance policy.

- e) The collateral provided in form of money deposit to the bank account will be returned to the bidder by bank transfer in terms stipulated by law including the interest credited by the bank. In the event of security provision in form of bank guarantee or guarantee insurance, the customer will release the security by returning the original guarantee certificate or insurance policy to the bidder.

The Bidder shall specify the bank account number for the purpose of returning the collateral.

Security in the form of a bank guarantee must be submitted as part of the tender bid in the original, i.e. in the form of an electronically signed bank guarantee by a person authorized to act on behalf of the bank or in the form of an electronic conversion of the original bank guarantee document.

## 8 QUALIFICATION PREREQUISITES

In its tender offer, the bidder shall demonstrate, by means of submitting relevant documents (*to be written in italics*), that it meets the following qualification prerequisites.

Unless otherwise stipulated by a special legal regulation, the foreign bidders shall prove the required qualification for the tender by the means stipulated by the laws of the country of their registered seat, place of business, or place of residence within the scope required by the Act and by the Contracting Entity. If a specific document is not issued according to the laws of the country of registered seat, place of business, or place of residence of the foreign bidder, such foreign bidder shall be obliged to prove such part of the qualification by an affidavit. If an obligation, which must be satisfied as a proof of qualification, is not required in the country of registered seat, place of business, or place of residence of the foreign bidder, the bidder will present an affidavit regarding this fact.

Bidders may also prove compliance with the qualification prerequisites by means of an extract from the list of qualified suppliers (in accordance with Section 228 of the Act) and/or by means of a certificate issued within the system of certified suppliers (in accordance with Section 233 of the Act) provided that the information in such extracts or certificates covers the Contracting Entity's requirements related to the qualification criteria below or any part thereof. Any extracts or certificates specified in this paragraph may not be older than 90 days and must be valid as of the last day of the term for tender offers submission.

In the case of proof of qualifications obtained abroad, the qualification in the case of joint participation of suppliers, proof of qualification through other persons or jointly, the bidder shall act in accordance with Sections 81 through to 84 of the Act.

The Contracting Entity excludes the possibility of the bidder to prove their qualification only by submitting an Affidavit, except for the qualification, where this is explicitly stipulated by the Contracting Entity.

### 8.1 Elementary and Professional Qualification Prerequisites

Using relevant documents (*in italics*), the bidder shall prove that it complies with the following elementary and professional qualification prerequisites:

- (i) is not in liquidation (*an original affidavit*);
- (ii) towards its property no bankruptcy proceedings are taking place or took place during the past three years or in respect of which a bankruptcy application has not been rejected due to assets insufficient to cover the costs of such

bankruptcy proceedings, or in respect of which a bankruptcy has been cancelled due to the absolutely insufficient assets or no forced administration has been imposed pursuant to the provisions of special legal rules and regulations (*an original affidavit*);

- (iii) the bidder is registered in the commercial register or another similar register (*simple copy of extract from the commercial register or other similar register*), if applicable;
- (iv) it possesses the license issued by the Energy Regulatory Office or by another similar foreign authority authorizing the bidder to trade gas, if such license is necessary with regard to the nature of the bidder's subject of business (*simple copy of the license*);
- (v) it holds a business authorization to an extent corresponding to the subject-matter of the public contract, unless such authorization is derived from the license submitted in accordance with paragraph iv. above (*simple copy of the authorization*).

Documents proving the compliance with the basic qualification prerequisites and the extract from the commercial register must not be older than 90 calendar days as of the last day of the term for tender offers submission.

## 8.2 Economic and Financial Qualification Prerequisites

Using relevant documents (*in italics*), the bidder shall further prove that it complies with the following economic and financial qualification prerequisites:

- (i) it has received a credit rating from Dun & Bradstreet in the form of *Failure score* not worse than 50. The Contracting entity also accepts ratings from other companies such as: Creditreform (Crefoport fo Czech republic) in the form of *Solvency Index* not worse than 250, or it has received a credit rating from *Standard & Poors*, *Fitch*, and *Moody's* not worse than BBB- / Baa3. The financial evaluation must be based on the financial statements including year 2018.
- (ii) (ii) The value of the bidder's turnover in the last three complete accounting periods was at least CZK 2 billion.

Documents demonstrating compliance with the economic and financial qualification prerequisites according to the point i) will be submitted as simple copies (e.g., in the form of an economic report issued by relevant agencies) and may not be older than 90 calendar days as of the last day of the term for tender offers submission.

The Contracting Authority further requires, pursuant to Section 83 (3) of the Act, that the bidder and another person through which the bidder demonstrates economic and financial qualification prerequisites pursuant to Section 78 of the Act shall bear joint and several liability for performance of the public contract.

## **9 TENDER TERM**

The term, during which the bidder shall be bound by its quotation, shall be ninety (90) days commencing on the day following the last day of the term for bids submission.

## **10 RESERVED RIGHTS OF THE CONTRACTING ENTITY**

- a) The Contracting Entity reserves the right to cancel the tendering procedure at any time.
- b) The Contracting Entity reserves the right, by means of an amendment to the tender documentation, to amend the tender conditions and to extend the deadline for the submission of tender offers proportionately at any time before the expiry of the time limit for the submission of tender offers.
- c) The Contracting Entity reserves the right to verify the truthfulness of the information submitted by bidders in their tender offers.
- d) The Contracting Entity reserves the right to request from the winning bidder the documents and information pursuant to the provisions of Section 104(2) and/or Section 122(3) of the Act before agreement execution.
- e) The Contracting Entity will in no event provide any compensation for costs incurred by any bidder in connection with their participation in the tender procedure unless otherwise stipulated by the Act.

## **11 CONTACT ADDRESS, TENDER DOCUMENTATION EXPLANATION**

A request for tender documentation clarification pursuant to the Section 98(3) of the Act must be in writing, in Czech, or English language and must be delivered to the Contracting Entity via the electronic tool TENDERARENA no later than 8 working days before the deadline for submission of tender bids. Any explanation of TD will, as well as TD, be published on the profile of the Contracting Entity.

## **12 EVALUATION CRITERION**

Tender offers will be evaluated, in accordance with Section 114 of the Act, according to the criterion of economic advantageousness of the tender offers. The evaluation shall be carried out in accordance with the sub-evaluation criteria and their weights below. For the evaluation of tender offers, the evaluation committee shall use a scaling scale ranging from 1 to 100. Each individual tender offer shall be awarded a point value according to the sub-criterion, which reflects the success of the tender offer under the sub-criterion, according to the following formula:

*The most advantageous tender offer (ie the lowest binding tender fee F for EC1 or X for EC2 as defined in point 13 of the tender documentation)*

*x weight [%] = the number of points of the sub-criterion*

*Evaluated tender offer*

The evaluation shall be carried out by the commission by multiplying the individual scores of tender offers according to the evaluation sub-criterion by the weight of the given sub-criterion. The sum of the points of each tender offer from all the sub-criterion results will create its final score. The tender offer with the highest score is the best tender offer.

Partial evaluation criteria:

EC	Weight	Description	Unit fee
1.	98%	F (unit fee in €/MWh)	€ 0.00
2.	2%	X (unit fee in CZK in respect to EUR/CZK conversion)	CZK 0.00

### 13 THE METHOD OF DETERMINING THE TENDE OFFER PRICE

In its tender offer within the draft contract, the bidder shall state the binding unit fee (commission for the intermediation of purchasing) in EUR per MWh, exclusive of VAT. The tender offer fee shall be stated as the maximum permissible fee. This fee shall contain all costs necessary to complete the public contract and shall be established as a final amount, i.e. with no inflation or any other clauses. The total price shall be established as follows:

$$P \text{ [EUR / MWh]} = C \text{ [EUR/ MWh]} * F \text{ [EUR / MWh]}$$

where

F is the unit tender offer fee (commission for the intermediation of purchasing [EUR/MWh]);

C [EUR/MWh] shall be determined as the value of the OTE Index for the Czech intraday gas market published for a given gas day on the OTE website in the Intraday Market Results section. Therefore, the bidder will only specify the value of F in the tender offer - ie the tender offer fee for gas supply.

The value of F will be evaluated for tender offer evaluation purposes.

The Contracting Entity also reserves the right to convert the bid price in CZK as part of the contract. Therefore the bidder shall also state the binding unit fee in respect to EUR/CZK conversion. The tender offer fee shall be stated as the maximum permissible fee. This fee shall contain all costs necessary to complete the public contract and shall be established as a final amount, i.e. with no inflation or any other clauses. The total price shall be established as follows:

$$P [\text{CZK/MWh}] = P[\text{EUR/MWh}] * (\text{FX}_{\text{EURCZK}} + X)$$

where

$\text{FX}_{\text{EURCZK}}$  ...The daily price in EUR/MWh shall be converted to CZK/MWh at the daily EUR/CZK exchange rate declared by the CNB on the current gas day D; should it not be available, the daily rate on the nearest immediately preceding day D-n, on which the daily rate was published, shall be used.

$X$  ... is a unit fee in CZK offered by the trader in respect to EUR/CZK conversion.

The value of  $X$  will be evaluated for tender offer evaluation purposes.

#### 14 COMMERCIAL AND PAYMENT TERMS AND CONDITIONS

The commercial terms and conditions are specified in the binding draft agreement on the public contract performance which constitutes Annex No. 1 to this tender documentation.

The bidder is not authorized to modify this draft in any way. The bidder shall only add its identification details and values corresponding to its tender offer to the designated places within the draft agreement. Any other modifications or amendments to the binding draft agreement will result in bidder's disqualification from participation in the tendering procedure.

#### 15 SUB-CONTRACTING

If the bidder is unable to fully demonstrate that it fulfils the criteria required by the Contracting Entity and related to the economic, financial or technical qualification, or, as the case may be, related to a business license, a membership in a professional autonomous organization, or professional qualification, it may demonstrate the fulfilment of such criterion (to its missing extent) via a subcontractor. In such case, the bidder is required to provide the Contracting Entity with an agreement with a subcontractor, showing the subcontractor's obligation to pursue such activities that are designated for the performance of the public contract by the bidder or providing things or rights to the bidder allowing it to use them in the performance of the public contract, at least to the extent in which the subcontractor has demonstrated the fulfilment of the qualification criteria. At the same time, the bidder shall include a document demonstrating the fulfilment of the basic qualification criterion set out in Section 74(e) of the PPA (affidavit of the subcontractor confirming that it has not been in liquidation procedure) and of the professional qualification criterion pursuant to Section 77(1) of the PPA (copy of an excerpt from the Commercial or similar register, if the subcontractor is enrolled thereon) by the subcontractor. The bidder may not discharge the requirement concerning an extract from the Commercial Register via a subcontractor.

The request for participation of the candidate will further comprise the documents proving the elementary qualification prerequisites pursuant to Section 8.1 above and extract from the commercial register for all subcontractors. At the same time, the candidate will submit the documents through which the subcontractor will prove part of the qualification on behalf of the candidate.

The bidder will be authorized to prove the compliance with the qualification prerequisites through a subcontractor and only to such scope within which such performance of the subject of the public contract by a subcontractor is possible and is not excluded by the Contracting Entity.

The bidder shall indicate in his Tender offer which parts of the contract together with their intended financial volume he intends to subcontract and shall indicate the identification details of such subcontractor (s), name, surname and professional qualifications of the personnel responsible for the performance of the contract (or its relevant section). The bidder shall specify in its bid what specific parts of the public contract together with their envisaged financial volume it intends to assign to its subcontractors and shall specify the identification details of such subcontractor.

## **16 JOINT VENTURE**

Where the subject of the tender is to be performed collectively by several suppliers who submit or intend to submit a joint bid for this purpose, each of the bidders shall demonstrate the fulfilment of the qualification to the full extent; this shall not apply to the economic, financial or technical qualification or business license, membership in professional autonomous chamber or other professional organization, or professional capacity, in respect of which it will suffice, if all the bidders demonstrate the fulfilment of this qualification together. Where the subject of the tender is to be performed by several suppliers, together with the documents demonstrating the fulfilment of the qualification criteria, the suppliers shall submit an agreement setting out an obligation that vis-à-vis the Contracting Entity and any third parties from any legal relationships arising in connection with the contract, all these suppliers are bound jointly and severally for the entire duration of the contract and for the duration of any other obligations arising from the contract.

## **17 COSTS AND FEES**

The bidder shall bear all costs associated with its participation in the tendering procedure, including the costs of drawing-up and submitting its tender offer, and the Contracting Entity will not be liable in any way for such costs, regardless of the course or outcome of the tendering procedure.

## **18 PROTECTION OF CONFIDENTIAL INFORMATION AND PERSONAL DATA**

The Contracting Entity shall keep confidential any and all information or documents submitted by the bidder. The Contracting Entity may use any information or documents submitted by the bidder to the extent necessary for procedure in accordance with the Act.

The Contracting Entity processes the personal data of the contractor in order to assess its offer in the procurement procedure in accordance with binding legal regulations. Processing for this purpose is necessary for the purposes of the procurement procedure and is carried out at the request of the supplier as the data subject.

The Contracting Entity acting as the Controller processes the personal data of the data subject in a correct, legal and transparent manner only for the specified purpose, to the necessary extent, and for a period not longer than is strictly necessary to achieve the

purpose of the processing in a manner that ensures that it is adequately safeguarded in accordance with the internal rules of the Contracting Entity.

Without providing the supplier's personal data, it is not possible to evaluate their offer for the purposes of the procurement procedure. Failure to provide the data to the extent required may result in the disqualification of the contractor from the procurement procedure.

Contractor's personal data may be processed by the Contracting Entity's consultants in the capacity of processors, only in connection with the procurement procedure and in accordance with binding legal regulations.

On behalf of NET4GAS, s.r.o.



Andreas Rau  
Executive

In Prague on 30-09-2019



Ing. Václav Hrach, Ph.D.  
Executive

Annex No. 1: Binding draft agreement