



PROCEDURE FOR THE PROCEEDINGS

aimed at awarding a preliminary agreement that obliges the parties to execute a final agreement on the use of real estate located within the borders of the seaport in Świnoujście, designated for operating a container terminal according to a concept proposed and implemented by a user

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I. GENERAL PROVISIONS

1. The following terms shall have the meanings given thereto hereinbelow, unless this document provides for explicitly otherwise:
 - a) **Arbiter** shall mean one of the persons listed in Schedule No 9 hereto;
 - b) **Documentation** shall mean a collection of documents that contain information that is, at discretion of ZMPSiŚ S.A., important with respect to the subject matter of the Preliminary Agreement and the Final Agreement, made accessible to the general public in the manner set forth herein;
 - c) **1st stage of Proceedings, 2nd stage of Proceedings** shall mean a relevant stage of the Proceedings out of the stages mentioned in section III.4 hereof;
 - d) **Civil Code** shall mean the Act of 23 April 1964 Civil Code;
 - e) **Commission** shall mean a team of persons who take decisions with resolutions, appointed according to the Procedure in order to take measures set forth herein and related to the organization of and conducting the Proceedings; the work of the Commission shall be managed by a Chairperson;
 - f) **Real Estate** shall mean in total: the future land real estate, which will be created as a result of drying up water area presented in Schedule No 1 hereto within the borders of the Seaport in Świnoujście together with existing land real estate related functionally to the above-mentioned land real estate created as a result of drying up and directly adjacent land real estate; provided ZMPSiŚ S.A. obtains a usufruct to such real estate or another title to use the real estate, which enables it to manage such real estate in a suitable scope, such real estate shall be handed over to the Participant to the Proceedings selected according to the Procedure in lease, to be used in accordance with the concept included in the content of the Offer and implemented by the Participant to the Proceedings at his cost and risk, taking into account the manner of using the real estate set forth in Schedule No 2 hereto provided for by ZMPSiŚ S.A.;
 - g) **Offer** shall mean an Offer submitted by a Participant to the Proceedings according to the Procedure of participating in the Proceedings and awarding the Preliminary Agreement that obliges him to execute an agreement on the use of the Real Estate according to the concept proposed in the Offer; the application of the following regulations of the Civil Code shall be excluded from the Proceedings: art.66², art.67, art.68², art.69, art.70, art.70², art.70³ § 1 and § 3, and art.70⁴ § 2 the third sentence;
 - h) **Seaport in Świnoujście** shall mean the area of water and land that is located inside the borders set forth in the Regulation of the Minister of Infrastructure of 18 December 2019 on the borders of the Seaport in Świnoujście;
 - i) **Proceedings** shall mean the non-discriminatory and transparent proceedings according to: Law, the Statute and the Procedure, mentioned in § 37¹ of the Statute and initiated by ZMPSiŚ S.A. to select the Participant to the Proceedings with whom ZMPSiŚ S.A. intends to execute the Preliminary Agreement;
 - j) **Law** shall mean Polish law, i.e. all legal standards applicable in the territory of the Republic of Poland together with acts of local law as well as any and all other regulations applicable in the Seaport in Świnoujście, including regulations issued by authorities of maritime administration and ZMPSiŚ S.A. as an entity that manages the seaport;
 - k) **Project** shall mean the development by the Participant to the Proceedings selected in the Proceedings, at his cost and risk, with the exclusion of funds from the budget of the state or local government authorities, of the relevant water area and real estate and handing over the Real Estate to the Participant to the Proceedings selected according to the Procedure for his use according to the concept included in the Offer and proposed by the Participant to the Proceedings and implemented by the Participant to the Proceedings at his cost and risk, taking into account the method of using the Real Estate provided for by ZMPSiŚ S.A. and set forth in Schedule No 2 hereto, together with obtaining by the Participant to the Proceedings selected according to the Procedure any and all permits required by Law for undertaking the commercial use of the Real Estate by the Participant to the Proceedings at his cost and risk. For the avoidance of doubt, ZMPSiŚ S.A. represents that the determination of a type, quantity,

characteristics and parameters of objects or things that belong to the Project depends on the needs of the Participant to the Proceedings selected according to the Procedure;

- l) **Procedure** shall mean this document entitled *'Procedure for the proceedings of awarding a Preliminary Agreement that obliges the parties to execute a final agreement on the use of a real estate located within the borders of the seaport in Świnoujście, designated for operating a container terminal according to a concept proposed and implemented by a user'*, its content comprising the provisions included in this document as well as all documents enclosed hereto or documents that are not enclosed but are referred to or invoked herein;
 - m) **Regulation 2016/679** shall mean *'Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)'*;
 - n) **Statute** shall mean the Statute in its applicable version of ZARZĄD MORSKICH PORTÓW SZCZECIN I ŚWINOUJŚCIE S.A. with its registered office in Szczecin, address: ul. Bytomska nr 7, 70-603 Szczecin, entered into the Register of Entrepreneurs of the National Court Register under KRS No 0000033768, registration court: District Court Szczecin-Centrum in Szczecin, REGON: 811649448, NIP: 9551889161;
 - o) **TFEU** shall mean the Treaty on the Functioning of the European Union – the version consolidated of the Treaty on the Functioning of the European Union with protocols and annexes thereto, taking into account amendments introduced in the Lisbon Treaty signed on 13 December 2007 in Lisbon, amendments introduced in the Protocol amending the Protocol on transitory provisions enclosed to the Treaty on the Functioning of the European Union, amendments introduced with decisions of the European Council 2010/718/EU of 29 October 2010 and 2012/419/EU of 11 July 2012 on the change of status of Saint-Barthélemy and Majotta islands towards the European Union, the new paragraph 3 added in art. 136 TFEU with the decision of the European Council 2011/199/EU of 25 March 2011 on the amendment to art. 136 of the Treaty on the Functioning of the European Union with respect to the stability mechanism for Member States whose currency is Euro;
 - p) **Participant to the Proceedings** shall mean a person or an unincorporated organizational unit that has a legal capacity granted by Law, which takes any actions in the course of the Proceedings; the Participant to the Proceedings shall be also recognised as a consortium of persons or above-mentioned organizational units;
 - q) **Preliminary Agreement** shall mean a contract subject to Law and defined in art.389 § 1 Civil Code, executed between ZMPŚIŚ S.A. and the Participant to the Proceedings selected under the Procedure, which obliges the parties on terms and conditions set forth therein or resulting from Law to execute the Final Agreement and including other obligations of the parties thereto;
 - r) **Final Agreement** shall mean an agreement subject to Law and executed under the Preliminary Agreement between ZMPŚIŚ S.A. and the Participant to the Proceedings selected under the Procedure, concerning the lease of the Real Estate to the Participant to the Proceedings selected under the Procedure, for his use in accordance with the content of the concept included in the Offer and proposed and implemented by the Participant to the Proceedings at his cost and risk, taking into account the way of using the Real Estate provided for by ZMPŚIŚ S.A. and set forth in Schedule No 2 hereto, including also elements of other contracts, including unnamed ones; and
 - s) **ZMPŚIŚ S.A.** shall mean a commercial law company under the name: ZARZĄD MORSKICH PORTÓW SZCZECIN I ŚWINOUJŚCIE S.A. with its registered office in Szczecin, address: ul. Bytomska nr 7, 70-603 Szczecin, entered into the Register of Entrepreneurs of the National Court Register under KRS No 0000033768, registration court: District Court Szczecin-Centrum in Szczecin, REGON: 811649448, NIP: 9551889161.
2. In this Procedure, unless the content of the Procedure provides for explicitly otherwise:
 - a) the title of the Procedure and headings of editorial units of the text of the Procedure shall not have any legal importance and shall not affect the interpretation of the provisions of the Procedure or the Proceedings;

- b) any reference to editorial units of the text or schedule shall be reference to editorial units of the Procedure or to schedules to the Procedure;
 - c) any reference to legal acts or regulations of Law shall mean reference to relevant versions of legal acts or regulations of Law applicable on the date of their application, taking into account any amendments, supplements and newly introduced regulations of Law; and
 - d) any reference to Internet portals or websites or information placed in the Internet shall mean a reference to relevant, current as of the date of application, portals, websites or information, taking into account any changes, supplements and new information included in such sites.
3. Notwithstanding anything to the contrary herein, whenever a plural number is used in this Procedure, the same provisions of the Procedure shall apply to a singular number, and whenever a singular number is used in the Procedure, the same provisions of the Procedure shall apply to a plural number.
 4. ZMPSiS S.A. shall fulfil obligations mentioned in art.13(1-3) of Regulation 2016/679 by placing required information on the website of ZMPSiS S.A.
 5. If the fulfilment of obligations mentioned in art. 15(1-3) of Regulation 2016/679 requires excessive effort, ZMPSiS S.A. may require a data subject to indicate additional information aimed at making a request more specific.
 6. Exercising the right to rectify or supplement personal data mentioned in art. 16 of Regulation 2016/679 by a data subject may not cause a change of the Participant to the Proceedings or award of the Proceedings or an amendment to the provisions of the Preliminary Agreement or the Final Agreement.
 7. Participants to the Proceedings shall not have the right to make a demand mentioned in art.17(1) of Regulation 2016/679.
 8. Making a demand mentioned in art. 18(1) of Regulation 2016/679 shall not limit the processing of personal data of Participants to the Proceedings until the end of the Proceedings.
 9. ZMPSiS S.A. shall process personal data collected in the Proceedings in the manner that protects them against their illegal distribution.

II. APPLICATION OF THE PROCEDURE

1. The Proceedings shall be carried out in accordance with Law and § 37¹ of the Statute.
2. The Procedure with the Documentation shall determine the non-discriminatory, competitive, and unconditional proceedings aimed at fulfilling the objective indicated in section III.1 hereof.
3. The Procedure and the Documentation shall be published in Polish together with the translation into English in the form that provides unlimited access to persons interested potentially in participating in the Proceedings, not later than on the day of publishing the first announcement with an invitation to participate in the Proceedings.

III. AIM AND GENERAL TERMS AND CONDITIONS OF THE PROCEEDINGS

1. The aim of the Proceedings is for ZMPSiS S.A. to select the Participant of the Proceedings with whom ZMPSiS S.A. intends to execute the Preliminary Agreement.
2. The Proceedings shall be carried out in a public manner, unless any provisions of the Procedure provide for otherwise.
3. The Proceedings shall be carried out exclusively in Poland. If any English versions of documents are created or published by ZMPSiS or the Commission in the Proceedings, they shall constitute exclusively a translation; therefore, the Polish version of a relevant document shall prevail in case of any differences.

4. Notwithstanding anything to the contrary herein, the Proceedings shall be carried out in the following stages:
- a) 1st stage:
 - (i) a public announcement of an invitation to participate in the Proceedings;
 - (ii) preparing and submitting Offers by Participants to the Proceedings;
 - (iii) opening Offers in public at a place and time indicated by ZMPSiS S.A.;
 - (iv) rejecting any Offers by the Commission that are submitted by the Participants to the Proceedings and are subject to exclusion from the participation in the Proceedings on the basis of the identical criteria for all Participants to the Proceedings indicated in section IX of the Procedure;
 - (v) rejecting any Offers by the Commission that are subject to rejection according to the criteria indicated in the Procedure that are identical for all Offers;
 - (vi) the assessment by the Commission of remaining Offers in accordance with section III.4(a)(iv) hereof and section III.4(a)(v) hereof, according to criteria indicated in the invitation to participate in the Proceedings that are identical for all Offers and determining by the Commission of a score obtained in the 1st stage of the Proceedings by every Offer that is not subject to rejection according to section III.4(a)(iv) hereof and section III.4(a)(v) hereof; and
 - (vii) notifying the Participants to the Proceedings of a score obtained by every Offer mentioned in section III.4(a)(vi) of the Procedure;
 - b) 2nd stage:
 - (i) inviting by the Management Board of ZMPSiS S.A. to the 2nd stage of the Proceedings first the Participant of the Proceedings whose Offer obtained a highest score in the 1st stage of the Proceedings, and if by a deadline set in section VIII.3 hereof, ZMPSiS S.A. and the Participant to the Proceedings concerned invited to participate in the 2nd stage of the Proceedings fail to agree on the full content of the Preliminary Agreement and the Final Agreement, ZMPSiS S.A. shall have the right to close negotiations with the Participant to the Proceedings invited to participate in the 2nd stage of the Proceedings and eliminate that Participant to the Proceedings from the further participation in the Proceedings and the Management Board of ZMPSiS S.A. shall have the right to invite to the 2nd stage of the Proceedings a consecutive Participant to the Proceedings, whose Offer obtained the next highest score in the 1st stage of the Proceedings, which may be repeated a number of times with respect to consecutive Participants to the Proceedings, in an order that corresponds to falling scores obtained in the 1st stage of the Proceedings by individual Offers mentioned in section III.4(a)(vi) hereof;
 - (ii) conducting negotiations by the Commission with a Participant to the Proceedings concerned, mentioned in section III.4(b)(i) hereof, with respect, in particular, to the specification of: a concept included in the content of the Offer and proposed by the Participant to the Proceedings, conditions of using or maintaining the Real Estate, deadlines and conditions for implementing the Project or its part, which may be repeated a number of times in relation to consecutive Participants to the Proceedings in an order corresponding to a falling score obtained in the 1st stage of the Proceedings by every Offer mentioned in section III.4(a)(vi) hereof; and
 - (iii) subject to the relevant provisions hereof, the execution of the Preliminary Agreement with the Participant to the Proceedings, with whom the full content of the Final Agreement is agreed upon during negotiations mentioned in section III.4(b)(ii) hereof.
5. The criteria of assessing Offers and determining their scores shall be determined in Schedule No 11 hereto.
6. Negotiations mentioned in section III.4(b)(ii) hereof shall not lead to the change of: requirements determined in the Procedure and concerning the conditions for participating in the Proceedings,

assessment criteria of Offers given in the invitation to participate in the Proceedings or a change of an Offer that is unfavourable for ZMPSiS S.A.

7. If the Commission deems this necessary in order to ensure the proper conduct of the Proceedings, the Commission may request every Participant to the Proceedings at any time to provide information or explanations that concern, among other: the content of submitted Offers, documents that make up the Offer or are enclosed thereto, intentions of the Participant to the Proceedings indicated in the content of the Offer, the way of using the Real Estate planned by the Participant to the Proceedings, specifying a concept included in the content of the Offer and proposed by the Participant to the Proceedings, terms and conditions provided for by the Participant to the Proceedings of using or maintaining the Real Estate, and the terms and conditions of implementing the Project anticipated by the Participant to the Proceedings.
8. Pursuant to a resolution of the Management Board of ZMPSiS S.A., the Proceedings may be closed at any time without an award, including for convenience (without given reasons), with an announcement in a form that is identical to the invitation to participate in the Proceedings, placed in the same journal as the invitation to participate in the Proceedings. If the Proceedings are closed in the manner indicated in the preceding sentence, Participants to the Proceedings shall have no right to make claims against ZMPSiS S.A., members of authorities of ZMPSiS S.A., members of the Commission or any persons employed by or collaborating with ZMPSiS S.A.

IV. INITIATING THE PROCEEDINGS

1. A decision to initiate the Proceedings shall be taken by the Management Board of ZMPSiS S.A.
2. The Management Board of ZMPSiS S.A. shall set up the Commission with a resolution and appoint its Chairperson.
3. From the date of adopting the resolution by the Management Board of ZMPSiS S.A. to set up the Commission mentioned in section IV.2 hereof, any activities related to the organization and conduct of the Proceedings shall be carried out by the Commission, unless the Management Board of ZMPSiS S.A. or the Commission authorise other persons to take specific actions.
4. Resolutions of the Management Board of ZMPSiS S.A. shall be required in particular for: determining the Procedure, determining the criteria of Offer assessment, and determining the values of a minimum fee (rent) for the use of the Real Estate.

V. DOCUMENTATION

1. The Documentation shall contain, as minimum:
 - a) general information about the location of the Real Estate;
 - b) general information about the method of using the Real Estate provided for by ZMPSiS S.A.;
 - c) the timetable of the Proceedings; and
 - d) information about material terms and conditions of the Preliminary Agreement and the Final Agreement.
2. The Documentation may also include other information, not mentioned in section V.1 hereof, at the discretion of ZMPSiS S.A., which is useful for the organization and conduct of the Proceedings as well as the preparation and submission of an Offer.
3. Before the deadline for submitting Offers set in section XVI.1 hereof, ZMPSiS S.A. shall have the right to modify the content of the Procedure or the Documentation for convenience, provided such modifications do not change: the terms and conditions of participating in the Proceedings or the criteria of assessing Offers. In the case mentioned in the preceding sentence, ZMPSiS S.A. shall immediately place information about changes introduced to the Procedure or the Documentation in the form that ensures the unlimited access for those potentially interested in participating in the Proceedings and, if necessary, shall change deadlines set in the Procedure accordingly.

VI. COMMISSION

1. The Commission shall comprise minimum 5 (five) persons, including the Chairperson of the Commission appointed by the Management Board of ZMPSiŚ S.A. in a resolution mentioned in section IV.2 hereof.
2. The following persons cannot be members of the Commission:
 - a) persons who are members of the authorities of ZMPSiŚ S.A. or their next of kin in the meaning of art. 115 § 11 of the Act of 6 June 1997 Penal Code;
 - b) persons who are in a legal or factual relationship with persons mentioned in section VI.2(a) hereof, which may raise reasonable doubts as to the impartiality of persons who are members of the authorities in ZMPSiŚ S.A.;
 - c) persons who are in a legal or factual relationship with a Participant to the Proceedings, which may raise reasonable doubts as to the impartiality of such persons; and
 - d) persons who have been sentenced validly for a crime committed due to the public procurement proceedings, the crime of bribery, the crime against economic turnover or other crimes committed in order to gain material benefits.
3. Immediately upon the establishment of the Commission's composition, the appointed persons shall submit a declaration in writing whether any circumstances occur mentioned in section IV.2 hereof.
4. No activities shall be repeated in the Proceedings that have been taken by a person who is subject to exclusion pursuant to section IV.2 hereof, unless such actions affect the result of the Proceedings or have been taken after becoming aware of the occurrence of circumstances that are the basis for exclusion.
5. The Management Board of ZMPSiŚ shall have the right, at any time and for convenience, to change the composition of the Commission, dismiss any persons from the composition of the Commission or appoint any persons who fulfil the conditions for membership in the Commission into the composition of the Commission. The events mentioned in the preceding sentence shall not affect the validity of any actions taken by the previous composition of the Commission or a person dismissed from the Commission.
6. The Chairperson of the Commission shall manage the work of the Commission and represent the Commission in external contacts.
7. Activities of the Commission shall be carried out without the participation of the Participants to the Proceedings, unless this Procedure provides for otherwise. Upon request of the Commission, consultants of ZMPSiŚ S.A. or other persons may participate in activities of the Commission involved in the organization and conduct of the Proceedings.
8. Minutes shall be prepared of meetings of the Commission in writing. Minutes mentioned in the preceding sentence shall be signed by all members of the Commission who participate in a meeting covered by the content of the minutes. Participants to the Proceedings shall not have the right to make any comments or objections to the content of such minutes.
9. Resolutions of the Commission shall be adopted with the ordinary majority of votes cast by members of the Commission present during the voting. When resolutions are adopted by the Commission, if there is an equal number of votes 'for' and 'against', the Chairperson shall have a casting vote.
10. Resolutions of the Commission may be published by placing their content in Polish with its translation into English on the website of ZMPSiŚ S.A.
11. The Commission shall be dissolved on the day of completing the Proceedings mentioned in section XI.19 hereof without the necessity to submit any declarations or take other actions.

VII. INVITATION TO PARTICIPATE IN THE PROCEEDINGS

1. An invitation to participate in the Proceedings shall be announced to the public, in the form that guarantees the unlimited access for those potentially interested in the participation in the Proceedings and adequate to the character and scale of the subject matter of the Preliminary Agreement: in Polish with the translation into English on the website of ZMPSiS S.A. Information about announcing the invitation to participate in the Proceedings in the manner indicated in the preceding sentence shall be also placed in a national daily newspaper and on minimum 3 (three) Internet portals dedicated to the maritime economy, including in minimum 2 (two) in English. According to a request of the Commission, the Management Board of ZMPSiS S.A. shall determine in a resolution the names of Internet portals on which the information about invitation to participate in the Proceedings shall be placed and the content thereof.
2. The invitation to participate in the Proceedings shall contain, as minimum:
 - a) necessary information that guarantees to those potentially interested in participating in the Proceedings the possibility to assess if they are interested in executing the Preliminary Agreement;
 - b) the description of the subject matter of the Proceedings;
 - c) information about the division of the Proceedings into stages;
 - d) the terms and conditions of participating in the Proceedings;
 - e) the indication of significant elements of the Offer and a minimum validity period of the Offer;
 - f) information about the duty to pay an Offer deposit mentioned in section XIV hereof before the submission of the Offer and the value of the Offer deposit;
 - g) assessment criteria of Offers, identical for all Offers;
 - h) a minimum value of a fee (rent) for using the Real Estate provided for by ZMPSiS S.A.; and
 - i) an address of the website of ZMPSiS S.A. on which the Procedure and the Documentation have been placed.
3. The invitation to participate in the Proceedings shall be placed sufficiently in advance, minimum 30 (thirty) days before the deadline for submitting Offers set in section XVI.1 hereof.
4. Information about publishing invitations to participate in the Proceedings shall be also transferred as soon as possible to all entities that have responded to a notice placed on 31 January 2020 on the website of ZMPSiS S.A. at: <http://www.port.szczecin.pl/pl/aktualnosci/zaproszenie-do-wyrazenia-zainteresowania/#>.

VIII. TERMS AND CONDITIONS OF PARTICIPATING IN THE PROCEEDINGS

1. Notwithstanding anything to the contrary herein, the right to make an Offer in the Proceedings shall be held by Participants to the Proceedings whose participation in the Proceedings does not violate Law or the Procedure and who are not subject to exclusion from the participation in the Proceedings according to the criteria set forth herein.
2. Exclusively Participants to the Proceedings may participate in the 2nd stage of the Proceedings who have been invited by ZMPSiS S.A. to participate in that stage of the Proceedings.
3. If within 30 (thirty) days of the date of commencing negotiations mentioned in section III.4(b)(ii) hereof, ZMPSiS S.A. and a next in order Participant to the Proceedings invited to participate in the 2nd stage of the Proceedings do not agree on the full content of the Preliminary Agreement and the Final Agreement, ZMPSiS S.A. shall have the right to terminate the negotiations with the Participant to the Proceedings concerned invited to participate in the 2nd stage of the Proceedings and to eliminate the Participant to the Proceedings concerned from the further participation in the Proceedings and to invite to the 2nd stage of the Proceedings the next Participant to the Proceedings, whose Offer has obtained the next highest score in the 1st stage of the Proceedings, which may be repeated a number of times, with respect to subsequent Participants to the Proceedings, in an order that corresponds to a falling score obtained in the 1st stage of the Proceedings by individual Offers mentioned in section III.4(a)(vi) hereof.

4. Every Participant to the Proceedings who has been eliminated by ZMPSiS S.A. from the further participation in the 2nd stage of the Proceedings pursuant to a decision of ZMPSiS S.A. taken under section VIII.3 hereof shall be treated as excluded from the Proceedings.
5. All Participants to the Proceedings from Member States of the European Union, states that belong to the European Economic Area or states that have executed relevant agreements with the Government of the Republic of Poland shall participate in the Proceedings on the same conditions.
6. Participants to the Proceedings shall bear any and all costs and risks that result from or are related to the participation in the Proceedings, including but not limited to those related to: tests, analyses and studies prepared in relation to the Proceedings, the preparation, drawing up and submission of the Offer or other documents, consulting, the organization and conduct of meetings or other activities related to the Proceedings. Participants to the Proceedings shall not have the right to make any claims against ZMPSiS S.A. or any other persons due to costs or risks that stem from the participation in the Proceedings.
7. All documents submitted in the Proceedings by Participants to the Proceedings, which have not been prepared in Polish, shall be provided by the Participant to the Proceedings with an original certified translation of the document into Polish, connected with the relevant document and prepared in writing or otherwise null and void, at the cost and risk of a Participant to the Proceedings concerned. Any documents that do not meet the requirements indicated in the preceding sentence shall not be examined and shall have no effect on the Proceedings whatsoever.
8. All documents submitted in the Proceedings by Participants to the Proceedings shall be enclosed in originals or copies certified as conforming to the original by a notary public or a person(s) authorised to represent the Participant to the Proceedings according to the rules of representing the Participant to the Proceedings or by a duly authorised attorney of the Participant to the Proceedings. If an attorney of the Participant to the Proceedings certifies the conformity with the original of copies of documents submitted by the Participant to the Proceedings, the attorney shall prove his authorization with relevant original documents. No documents that do not fulfil the conditions indicated in the preceding sentences shall be examined and shall have no effect on the Proceedings whatsoever.
9. Any Offers including documents that do not meet the conditions set forth in section VIII.7 hereof or section VIII.8 hereof shall be rejected without a notice, as non-conforming to the requirements set forth in the Procedure, and shall have no effect on the Proceedings whatsoever.

IX. CRITERIA OF EXCLUDING FROM THE PARTICIPATION IN THE PROCEEDINGS

1. Notwithstanding anything to the contrary herein, the following persons may not participate in the Proceedings or may be excluded from the Proceedings at any time:
 - a) persons who are members of the authorities of ZMPSiS S.A. or the Commission or their next of kin in the meaning of art. 115 § 11 of the Act of 6 June 1997 Penal Code;
 - b) persons or unincorporated organizational units who are given a legal capacity by Law and who do not meet the conditions for the participation in the Proceedings set forth herein and resulting from Law or whose participation in the Proceedings violates Law or the Procedure;
 - c) persons or unincorporated organizational units who are given a legal capacity by Law who are subject to an initiated liquidation, who have been declared bankrupt, whose assets are managed by a liquidator or court, who have executed a settlement with their creditors, whose business activity is suspended or are in a similar situation that results from a similar procedure provided for in the regulations of place where the procedure is initiated;
 - d) persons or unincorporated organizational units who are given a legal capacity by Law who misled ZMPSiS S.A. or the Commission when presenting information that they are not subject to exclusion or that they fulfil the conditions for participating in the Proceedings;
 - e) persons or unincorporated organizational units who are given a legal capacity by Law who have presented in the Proceedings information that misled ZMPSiS S.A. or the Commission, which

- had or might have a major impact on decisions taken in the Proceedings by ZMPSiS S.A. or the Commission;
- f) persons or unincorporated organizational units who are given a legal capacity by Law for whom a valid ruling has been issued, according to reliable information, which confirms the commitment of one of the following acts:
- (i) the participation in a criminal organization according to the definition of such an organization given in art. 2 of the Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ EU L 2008/300) or defined in Law;
 - (ii) corruption, according to a definition given in art. 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (OJ EU L 1997/19) and art.2(1) of the Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ EU L 2003/192) or defined in Law;
 - (iii) financial abuse in the meaning of art. 1 of the Convention on the protection of the European Communities' financial interests (OJ EU L 1995/316) or defined in Law;
 - (iv) terrorist offences or offences linked to terrorist activities according to a definition given in art. 1 and art. 3 respectively of the Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ EU L 2002/164) or defined in Law, or abetting to commit an offence, assistance, complicity or attempting to commit an above-mentioned offence;
 - (v) money laundering or financing terrorist activity according to a definition given in art. 1 of the Directive of the European Parliament and of the Council 2005/60/EC of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ EU L 2005/309) or defined in Law;
 - (vi) child labour and other forms of human trafficking, according to a definition given in art. 2 of the Directive of the European Parliament and of the Council 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims (OJ EU L 2011/101) or defined in Law;
- g) persons or unincorporated organizational units who are given a legal capacity by Law if according to reliable information a person sentenced with a valid judgement for committing one of the acts listed in section IX.1(f) hereof is a member of managing or supervisory authorities of the person or organizational unit;
- h) consortia whose members include persons or unincorporated organizational units listed in any of the provisions of section IX.1(a-f) hereof.
- i) persons or unincorporated organizational units who are given a legal capacity by Law, in relation to which the Minister of National Defence or an organisational unit of the Ministry of National Defence or an institution competent for the protection of the internal or external security of the Polish State shall raise objections with regard to the defence or security of the Polish State.
2. A decision to exclude a person from the Proceedings according to information or criteria set forth in section IX.1 hereof may be taken at any time. The Commission shall take a decision on the exclusion from the Proceedings according to information or criteria set forth in section IX.1 hereof.
3. Actions taken in the Proceedings by a Participant to the Proceedings excluded from the participation in the Proceedings based on information or criteria set forth in section IX.1 hereof shall be entirely invalid *ex tunc* and shall have no effects in the Proceedings. For the purpose of the Proceedings, an Offer submitted by the Participant to the Proceedings excluded from the Proceedings shall be deemed to be invalid and shall have no effects in the Proceedings.

X. PROVIDING EXPLANATIONS TO PARTICIPANTS

1. Within 21 (twenty-one) days of the date of placing an invitation on the website of ZMPSiS S.A. at: www.port.szczecin.pl to participate in the Proceedings, every Participant to the Proceedings may

request ZMPSiŚ S.A. for explaining the content of the Procedure or the Documentation, subject to the provisions of the Procedure to the contrary and the obligation to follow by an applicant the procedure set forth in section X hereof. A request mentioned in the preceding sentence shall be deemed to be submitted on the day of dispatching a request by the Participant to the Proceedings.

2. A request mentioned in section X hereof shall be formulated in Polish and shall be sent before the deadline set in section X.1 hereof, in the form of a document, to the e-mail address: wp@port.szczecin.pl.
3. A request mentioned in section X hereof shall include the following information as minimum: the indication of a person or an unincorporated organizational unit who submits a request, a question that is formulated explicitly, and moreover, in the title of the message, the following phrase: 'Wniosek o wyjaśnienie – Świnoujście' (Request for Explanation – Świnoujście)
4. A request mentioned in section X hereof may concern exclusively an explanation of a meaning or method of interpreting by ZMPSiŚ S.A. of terms used in the Procedure or in the Documentation. A request mentioned in section X hereof shall not concern the content of an Offer or documents submitted with an Offer.
5. Requests that do not meet the requirements set forth in section X.1-X.3 hereof or requests that concern issues other than indicated in section X.4 hereof shall not be responded to. The Commission shall not be obliged to inform a Participant to the Proceedings of an occurrence mentioned in the preceding sentence.
6. Subject to section X.5 hereof, responses to requests mentioned in the content of this section X hereof shall be given by the Commission by placing on the website of ZMPSiŚ S.A. of information in Polish with a translation into English including the content of a request and a response given by the Commission.
7. Without the necessity to provide any additional explanations to Participants, responses to requests mentioned in section X hereof given in the manner set forth in section X.6 hereof shall be binding for all Participants to the Proceedings.

XI. COURSE OF THE PROCEEDINGS

1. Proceedings shall be carried out in the following forms: written, documented, oral, and using means of electronic communication. The Procedure shall determine a form of a relevant activity taken within the Proceedings. If the Procedure does not determine a form proper for a relevant action in the course of the Proceedings, a Participant to the Proceedings shall have the right to take such an action in one of the forms indicated in the preceding sentence at his discretion, unless the Commission informs all the Participants to the Proceedings in advance of the necessity to maintain a form of an action indicated by the Commission.
2. For the validity of the Proceedings, it is sufficient that at least one Offer is submitted before the expiry of the deadline for submitting Offers set in section XVI.1 hereof.
3. For the purpose of the Proceedings, an Offer shall be considered valid if it has been prepared in the form set forth herein, according to all requirements set forth herein, contains all information and documents indicated herein, and is signed by a person or persons duly authorised to represent a Participant to the Proceedings according to the rules of representing the Participant to the Proceedings or by a duly authorised attorney of the Participant to the Proceedings.
4. In the course of opening Offers in the public by the Commission on a date and at a place indicated in section XVI hereof, the Chairperson of the Commission or a member of the Commission appointed by the Chairperson of the Commission shall announce orally at least: names (firms) or first names and surnames and addresses of all Participants to the Proceedings who have submitted Offers before the deadline for submitting Offers set in section XVI.1 hereof and shall read information contained in an information form that is a part of opened Offers. The Chairperson of the Commission or a member of the Commission appointed by the Chairperson of the Commission

shall also have the right to read or inform of elements in the content of opened Offers that are important according to the Commission during the public opening of Offers.

5. Parts of Offers that contain information being business secrets of a Participant to the Proceedings, in the meaning of regulations on counteracting unfair competition, shall not be disclosed if a Participant to the Proceedings, at the latest before the expiry of a deadline for making such Offers set in section XVI.1 hereof, reserves that such information may not be made accessible and has proven that such reserved information constitutes business secrets. Unless Law provides for otherwise, subject to the provisions of the preceding sentence, the right to obtain information about the content of opened Offers or their parts shall be held exclusively by Participants to the Proceedings who have made Offers mentioned in section III.4(a)(vi) hereof.
6. After the public opening of Offers by the Commission on a date and at a place indicated in section XVI hereof, the Commission shall begin, at a closed door hearing, activities indicated in section III.4.a(iv)-(vi) hereof. The course of activities indicated in the preceding sentence shall be secret and shall constitute business secrets of ZMPSiS S.A.
7. It is not necessary to analyse an opened Offer in detail or verify all the formal conditions of an opened Offer, if the Commission determines according to the Procedure that an open Offer is invalid or is subject to rejection for other reasons.
8. Upon completing the activities set forth in section III.4(a)(iv)-(vi) hereof, the Management Board of ZMPSiS S.A., following an application of the Commission, shall adopt a resolution on inviting to participate in the 2nd stage of the Proceedings the first of the Participants to the Proceedings mentioned in section III.4(a)(viii) hereof, in an order indicated in that regulation. The invitation mentioned in the preceding sentence shall not constitute an offer in the meaning of art.66 § 1 Civil Code or art.66³ § 1 Civil Code, an announcement of an auction or tender in the meaning of art.70¹ Civil Code or an invitation to execute an agreement mentioned in art.71 Civil Code.
9. The Commission shall have the right to file a request to the Management Board of ZMPSiS S.A. at any time to adopt a resolution on completing the Proceedings without a resolution or a request for adopting a resolution on completing current negotiations with a Participant to the Proceedings concerned invited to participate in the 2nd stage of the Proceedings and to eliminate from the further participation in the Proceedings a Participant to the Proceedings concerned and to invite by the Management Board of ZMPSiS S.A. to the 2nd stage of the Proceedings a subsequent Participant to the Proceedings whose Offer has obtained the next highest score in the 1st stage of the Proceedings, which may be repeated a number of times, in relation to consecutive Participants to the Proceedings, in an order corresponding to a falling score obtained in the 1st stage of the Proceedings by individual Offers.
10. In the cases mentioned in section VIII.3 hereof, following a request of the Commission set forth in section XI.9 hereof, the Management Board of ZMPSiS S.A. shall adopt a resolution on completing current negotiations with a Participant to the Proceedings concerned invited to participate in the 2nd stage of the Proceedings and on eliminating from the further participation in the Proceedings the Participant to the Proceedings concerned and inviting to the 2nd stage of the Proceedings a subsequent Participant to the Proceedings whose Offer has obtained the next highest score in the 1st stage of the Proceedings, which may be repeated a number of times, in relation to consecutive Participants to the Proceedings, in an order corresponding to a falling score obtained in the 1st stage of the Proceedings by individual Offers. The invitation mentioned in the preceding sentence shall not constitute an offer in the meaning of art.66 § 1 Civil Code or art.66³ § 1 Civil Code, an announcement of an auction or tender in the meaning of art.70¹ Civil Code or an invitation to execute an agreement mentioned in art.71 Civil Code.
11. A place and time of conducting negotiations mentioned in section III.4(b)(ii) hereof shall be indicated by the Commission. Negotiations mentioned in the preceding sentence shall be carried out on behalf of ZMPSiS S.A. by the Commission, without the participation of any third parties; however, upon summons of the Commission, consultants of ZMPSiS S.A. or other persons indicated by the Commission may participate in the above-mentioned negotiations.

12. Negotiations mentioned in section III.4(b)(ii) hereof shall not be subject to art.72 § 1 Civil Code. Negotiations mentioned in the preceding sentence may be closed by ZMPSiS S.A. at any time, including for convenience, which shall not be considered to be an act contrary to good practice whatsoever, in particular as an act of initiating or conducting negotiations by ZMPSiS S.A. without an intention to execute an agreement.
13. After completing negotiations mentioned in section III.4(b)(ii) hereof, the Management Board of ZMPSiS S.A., following a request of the Commission, shall adopt a resolution on selecting a Participant to the Proceedings with whom, after the fulfilment of the requirements resulting from Law, the Statute, and the Procedure, the Preliminary Agreement shall be executed.
14. ZMPSiS S.A. reserves the confidentiality of any and all information provided to Participants to the Proceedings in the course of negotiations and mentioned in section III.4(b)(ii) hereof and represents that such information constitutes business secrets of ZMPSiS S.A. Participants to the Proceedings shall not disclose or transfer to any other persons, organizational units or entities and shall not use information mentioned in the preceding sentence for a purpose other than the participation in the Proceedings or the execution of a Preliminary Agreement.
15. A date of completing the Proceedings shall be an earlier of the following days: a day of executing a Preliminary Agreement or a day when the Management Board of ZMPSiS S.A. adopts a resolution on completing the Proceedings without a resolution.

XII. APPEALS

1. Participants to the Proceedings shall have the right to make appeals according to the Procedure against resolutions of the Commission or ZMPSiS S.A. that are against Law or the Procedure and are adopted in the Proceedings concerning: an exclusion of an appealing Participant to the Proceedings from the participation in the Proceedings, rejecting or recognising as invalid an Offer submitted by an appealing Participant to the Proceedings or another resolution of the Commission or ZMPSiS S.A. that affects adversely an appealing Participant to the Proceedings, provided an appealing Participant to the Proceedings indicates such effects in the content of the appeal and provided that the resolution appealed against has had a major impact on the course of the Proceedings.
2. Appeals mentioned in section XII.1 hereof shall be handled in accordance with the Procedure, in particular with Schedule No 7 hereto, by an Arbiter selected by an appealing Participant to the Proceedings from the list enclosed as Schedule No 9 hereto. ZMPSiS S.A. and an appealing Participant to the Proceedings shall be obliged to cooperate in good faith in order to enable the Arbiter mentioned in the preceding sentence to issue a ruling mentioned in section XII.12 hereof within 14 (fourteen) days of serving ZMPSiS S.A. a letter of the Participant to the Proceedings that contains the appeal.
3. An appeal shall be lodged to ZMPSiS S.A. within 7 (seven) days of the date when an appealing Participant to the Proceedings is notified of a resolution indicated in section XII.1 hereof that is appealed against.
4. An appeal shall be made in writing in a hard copy in Polish or with a certified translation into Polish enclosed thereto. All documents submitted in an appeal or enclosed thereto, which have not been prepared in Polish, shall be provided before their submission by an appealing Participant to the Proceedings with an original certified translation of the document into Polish, connected with the relevant document and prepared in writing or otherwise null and void, at the cost and risk of a Participant to the Proceedings concerned. Appeals or documents that do not meet the requirements indicated above shall not be examined and shall have no effect on the Proceedings whatsoever.
5. Under the pain of being recognised as void and null, an appeal shall:
 - a) indicate an Arbiter selected by an appealing Participant to the Proceedings from the list enclosed as Schedule No 9 hereto;

- b) determine the resolution of the Commission or ZMPSiŚ S.A. indicated in section XII.1 hereof it concerns;
 - c) contain a concise presentation of objections of an appealing Participant to the Proceedings as well as the actual status of affairs that justifies making an appeal;
 - d) indicate evidence to support the same, which has to be enclosed to the appeal, where testimonies of witnesses shall be recorded in writing, and a signature of a witness shall be certified by a notary public;
 - e) be appended with a handwritten signature by a person or persons duly authorised to represent an appealing Participant to the Proceedings according to rules of representing the Participant to the Proceedings or by a duly authorised attorney of an appealing Participant to the Proceedings, where the duty to prove the authorization of a person or persons mentioned above together with an appeal shall fall to an appealing Participant to the Proceedings.
6. An order for the Arbiter indicated in the content of an appeal prepared in writing in a hard copy according to a form enclosed as Schedule No 10 hereto shall be enclosed to an appeal, with a handwritten signature appended by a person or persons duly authorised to represent an appealing Participant to the Proceedings according to rules of representing the Participant to the Proceedings or by a duly authorised attorney of an appealing Participant to the Proceedings, where the duty to prove the authorization of a person or persons mentioned above together with an appeal shall fall to an appealing Participant to the Proceedings.
7. An original receipt of a fixed fee of the Arbiter indicated in the content of the appeal shall be enclosed to the appeal in the amount of PLN 50,000.00 (fifty thousand zlotys), paid to an account of ZMPSiŚ S.A. indicated in section XIV. 2 hereof. ZMPSiŚ S.A. shall immediately transfer the whole amount paid by an appealing Participant to the Proceedings to a bank account of an Arbiter indicated in the content of the appeal.
8. In each of the following cases:
- a) if no receipt of a fixed fee of the Arbiter indicated in the content of an appeal by an appealing Participant to the Proceedings has been enclosed to an appeal, in the amount and in the manner set forth in section XII.7 hereof;
 - b) if a duly signed order mentioned in section XII.6 hereof has not been enclosed to an appeal;
 - c) if no documents have been enclosed to an appeal or order mentioned in section XII.6 hereof to confirm the authorization of the person or persons who has(ve) signed the order; the appeal shall not be examined and shall have no effects on the Proceedings.
9. ZMPSiŚ S.A. shall immediately provide to the Arbiter indicated in the content of an appeal a lodged appeal and an order mentioned in section XII.6 hereof. Together with an appeal, ZMPSiŚ S.A. may provide an Arbiter with a response to the appeal that is subject to section XII.4 hereof and section XII.5(d)-(e) hereof respectively.
10. An Arbiter indicated in the content of an appeal shall reject an appeal if he concludes that:
- a) an appeal has been lodged by an unauthorised entity;
 - b) an appeal has been lodged after the deadline set forth in section XII.3 hereof;
 - c) an appeal violates the provisions of section XII.4-6 hereof, in particular if an appeal or other documents submitted with an appeal have not been properly signed or an appealing Participant to the Proceedings has not proven the authorization of the signatories of the appeal or other documents submitted with an appeal;
 - d) an appeal concerns a resolution or circumstances that have been resolved with an earlier ruling of any of the Arbiters concerning another appeal lodged by the same Participant to the Proceedings or constitutes a second or further appeal lodged by the same Participant to the Proceedings against the same ruling; or
 - e) an appeal has been lodged only in order to delay the Proceedings, in particular in matters that are not listed in sections XII.1 hereof.
11. A rejected appeal shall not be examined and shall have no effects on the Proceedings. The Arbiter indicated in the content of an appeal shall notify an appealing Participant to the Proceedings and ZMPSiŚ S.A. of rejecting an appeal only once.

12. An Arbiter indicated in the content of an appeal shall resolve to uphold to or dismiss an appeal in a ruling issued in writing and shall serve its copies to an appealing Participant to the Proceedings and ZMPSiS S.A. An original ruling mentioned in the preceding sentence shall be submitted to the Commission as soon as possible. A ruling mentioned in the preceding sentence shall be final and there shall be no other appeal or complaint measures against it.
13. If an appeal is upheld, ZMPSiS S.A. or the Commission shall be obliged to revoke a resolution appealed against with an upheld appeal and shall re-examine the relevant circumstances and issue a new resolution instead of the revoked resolution, and the Proceedings shall be continued, however from the last action preceding the issue of a revoked resolution.
14. If an appeal is upheld, within 14 (fourteen) days of the date of serving the ruling to ZMPSiS S.A. mentioned in section XII.12 hereof, ZMPSiS shall reimburse to an appealing Participant to the Proceedings the whole amount of a fixed fee of the Arbiter indicated in the content of an appeal and paid by the Participant to the Proceedings, mentioned in section XII.7 hereof. If an appeal is dismissed or not upheld, a fixed fee of the Arbiter indicated in the content of the appeal mentioned in section XII.7 hereof shall be covered in whole by an appealing Participant to the Proceedings, who shall have no right to file any claims in this case against the Arbiter indicated in the content of an appeal, ZMPSiS S.A., members of authorities in ZMPSiS S.A., members of the Commission, or persons employed by or collaborating with ZMPSiS S.A.
15. Participants to the Proceedings, persons or unincorporated organizational units whom Law grants a legal capacity or other entities that are or have been interested in the resolution of the Proceedings or have suffered or might have suffered loss as a result of the violation of Law or the Procedure, shall not be entitled due to their participation in the Proceedings to file any complaints or to any remedies, other than set forth in the content of this section XII hereof.

XIII. OFFER AND ITS MAJOR ELEMENTS

1. A Participant to the Proceedings shall make a complete (i.e. containing all the documents, declarations and information indicated in the Procedure) Offer, according to all the requirements set forth herein.
2. An Offer that is incomplete, i.e. does not contain all the documents or declarations of a Participant to the Proceedings set forth in the Procedure and of suitable content and form, shall be considered to be an Offer that does not fulfil the requirements set forth in the Procedure and shall be rejected without consideration.
3. A Participant to the Proceedings shall have the right to make only one Offer. If a Participant to the Proceedings makes more than one Offer, only the last Offer made by the Participant to the Proceedings shall be examined by the Commission, and this Offer shall be binding in whole for the Participant to the Proceedings, while any earlier Offers of this Participant to the Proceedings shall be omitted in whole, as invalid.
4. It is not admissible in the Proceedings to make the following Offers: conditional, partial, concerning the use only of a part of the Real Estate or Offers of a similar content.
5. Until the expiry of a deadline for making Offers set forth in section XVI.1 hereof, every Participant to the Proceedings may change or withdraw in whole an Offer he has made. A withdrawn Offer shall be recognised for the purpose of the Proceedings as an invalid one. The withdrawal of an Offer shall be made in writing, with a hand-written signature appended by a person or persons duly authorised to represent the Participant to the Proceedings according to the rules of representing the Participant to the Proceedings or a duly authorised attorney of the Participant to the Proceedings, where the duty to prove the authorization of a person or persons mentioned above shall fall to the Participant to the Proceedings. A change of an Offer shall be subject to the same rules as making an Offer. If a made Offer is changed, a Participant to the Proceedings shall clearly and in detail indicate the content of changes compared to the content of a previously made Offer. If in doubt as to the circumstances indicated in the preceding sentence, for the purpose of the Proceedings, the

Commission may, without prior notice or summoning the Participant to the Proceedings, conclude that the Participant to the Proceedings has made a new Offer and consider only the new Offer, according to the provisions of section XIII.3 hereof.

6. In the content of an Offer, every Participant to the Proceedings shall make a declaration that he is bound without any reservations or conditions by the whole Offer he makes in the period until 31 December 2021, and until the expiry of this deadline the Participant to the Proceedings shall expect a response from ZMPSiS S.A. to his Offer. If the Management Board of ZMPSiS S.A. adopts a resolution on excluding a Participant to the Proceedings from the Proceedings or on closing the Proceedings without a resolution, from the date of such an action a Participant to the Proceedings shall be no longer bound by the Offer made.
7. An Offer shall be rejected without consideration as invalid, if:
 - a) it is made after the deadline for making Offers set in section XVI.1 hereof;
 - b) it is made at a location other than set forth in section XVI.2 hereof;
 - c) it is made by a Participant to the Proceedings whose participation in the Proceedings violates the conditions set forth in section VIII.1 hereof;
 - d) it is made by a Participant to the Proceedings who is subject to exclusion from the Proceedings pursuant to section IX hereof;
 - e) it is made by a Participant to the Proceedings whose Offer deposit has not been credited on an account indicated in section XIV.2 hereof before the deadline for making Offers set in section XVI.1 hereof;
 - f) it violates the provisions of XIII.9-XIII.17 or section XV.2 hereof or does not fulfil other requirements set forth herein;
 - g) it does not contain a declaration mentioned in section XIII.6 hereof or other declarations indicated herein, including but not limited to in section XII.13 hereof;
 - h) it constitutes an Offer mentioned in section XIII.3 hereof;
 - i) it is withdrawn according to section XIII.5 hereof; or
 - j) it is submitted by a Participant to the Proceedings who has not proved experience in managing container terminals with an annual handling capacity min. 500,000 TEU, serving megamax vessels or has not proved that such experience is possessed by entities or persons who will cooperate with the Participant to the Proceedings in the implementation of the Project.
8. A title to all the documents, information (including not in a recorded form) and other materials included in an Offer or served to ZMPSiS S.A. or the Commission by Participants to the Proceedings shall be transferred without the necessity to make any further declarations to ZMPSiS S.A. at the time of their issue or disclosure to ZMPSiS S.A. Participants to the Proceedings shall not be entitled to file any claims against ZMPSiS S.A., members of authorities of ZMPSiS S.A., members of the Commission, persons employed by or collaborating with ZMPSiS S.A. due to the use of such documents, information or other materials by the above-mentioned persons.
9. An Offer shall be drawn up legibly and in a permanent manner in Polish in writing or shall be otherwise null and void. Consecutive pages of an Offer shall be numbered with subsequent numbers, legibly and in a permanent manner.
10. An Offer and all documents included in the Offer that are not official documents shall be signed by a person or persons duly authorised to represent the Participant to the Proceedings according to the rules of representing the Participant to the Proceedings or by a duly authorised attorney of the Participant to the Proceedings. The duty to prove the authorization of a person or persons mentioned in the preceding sentence shall fall to the Participant to the Proceedings.
11. Only an original of an Offer shall be admitted in the Proceedings.
12. A Participant to the Proceedings shall fill out a form informing about intentions of the Participant to the Proceedings (Schedule No 3 hereto), including but not limited to the amount in the content of the form, which the Participant to the Proceedings will pay ZMPSiS S.A. if the Final Agreement is executed with the Participant to the Proceedings for the use of the Real Estate during the term of the Final Agreement, where the amount offered by the Participant to the Proceedings shall not be

lower than a minimum amount of a fee (rent) for the use of the Real Estate indicated by ZMPSiS S.A. in an invitation to participate in the Proceedings, and shall submit this form after filling it out as a part of the Offer.

13. In addition to other documents indicated in the Procedure, the following documents shall be enclosed to the Offer:
- a) a valid extract from the National Court Register, prepared not earlier than on the day of publishing the first invitation to participate in the Proceedings, concerning a Participant to the Proceedings, or a printout of information collected under art. 4(4aa) of the Act of 20 August 1997 on the National Court Register collected not earlier than on the day of publishing the first announcement with the invitation to participate in the Proceedings concerning a Participant to the Proceedings or a relevant printout from another register or record, in which the Participant to the Proceedings is entered according to applicable regulations;
 - b) a valid certificate on no arrears in tax liabilities of the Participant to the Proceedings, prepared not earlier than on the day of publishing the first invitation to participate in the Proceedings, issued by a fiscal administration authority competent for the registered office or domicile of the Participant to the Proceedings;
 - c) a valid certificate that confirms no arrears of the Participant to the Proceedings in paying due premiums, prepared not earlier than on the day of publishing the first invitation to participate in the Proceedings, issued by a branch of the Social Insurance Institution (*ZUS*) competent for the registered office or domicile of the Participant to the Proceedings;
 - d) a valid opinion of a bank in which a Participant to the Proceedings holds his current account, prepared not earlier than on the day of publishing the first invitation to participate in the Proceedings;
 - e) minimum one of the following documents confirming the sources of financing the Project:
 - (i) if the Project is to be implemented with own resources—a confirmation issued by a bank of collecting adequate funds on a bank account of a Participant to the Proceedings;
 - (ii) if the Project is to be implemented with a loan or credit, a term sheet for the whole project together with a written declaration of all financing institutions on the intention to provide funding for the entity indicated in the document and confirming the agreement with the Participant to the Proceedings of funding terms and conditions; or
 - (iii) if funds from an entity being a part of the Participant to the Proceedings are indicated as one of the sources of financing the Project, a letter of comfort issued by such an entity;
 - f) declarations of a Participant to the Proceedings that:
 - (i) the Participant to the Proceedings has not been subject to any events that would exclude him from the participation in the Proceedings set forth in section IX hereof and is authorised to act in legal trading and to execute the Preliminary Agreement and the Final Agreement (Schedule No 4);
 - (ii) the Participant to the Proceedings has obtained all the consents and resolutions of corporate authorities of the Participant to the Proceedings as necessary for the Participant to the Proceedings to participate in the Proceedings and to execute the Preliminary Agreement and the Final Agreement or a declaration of the Participant to the Proceedings that no above-mentioned consents or resolutions are required for the participation of the Participant to the Proceedings in the Proceedings or the execution of the Preliminary Agreement or the Final Agreement according to Law and the governing law of the Participant to the Proceedings (Schedule No 4);
 - (iii) the Participant to the Proceedings has obtained all consents and resolutions of corporate authorities of the Participant to the Proceedings required according to decisions of courts or public administration authorities for the Participant to the Proceedings to participate in the Procedure and to execute the Preliminary Agreement and the Final Agreement or a declaration of the Participant to the

- Proceedings that no above-mentioned consents or resolutions are required for the participation of the Participant to the Proceedings in the Proceedings and the execution of the Preliminary Agreement or the Final Agreement according to decisions of courts or public administration authorities (Schedule No 4);
- (iv) the Participant to the Proceedings has: suitable experience in the business that involves the service of ships and their cargo in port trading including any auxiliary activities in port trading, the adequate economic and technical potential necessary to fulfil his obligations duly as set forth in the Proceedings or the Documentation; moreover, the financial standing of the Participant to the Proceedings guarantees the proper performance of the Preliminary Agreement and the Final Agreement (Schedule No 5);
 - (v) the Participant to the Proceedings is aware that the infrastructure that provides access to the seaport in Świnoujście, the port infrastructure located in the seaport in Świnoujście, railway lines, railway sidings, roads, grid connections, etc., are generally accessible to ship operators and their cargos and the Participant to the Proceedings accepts without any reservations the above-mentioned circumstances and their effects (Schedule No 5);
 - (vi) in relationships with ZMPŚiŚ S.A., the Parties exclude the application of art. 700 Civil Code with respect to the Real Estate and the Participant to the Proceedings agrees on including the same provision in the Final Agreement (Schedule No 5);
 - (vii) all information included in the Offer and other documents submitted by the Participant to the Proceedings in the Proceedings complies with the actual status of affairs and is complete as necessary for ZMPŚiŚ S.A. to assess adequately the situation of the Participant to the Proceedings and the content of his Offer (Schedule No 6); and
 - (viii) the Participant to the Proceedings has made himself acquainted with the Procedure, the Documentation, and Law; moreover, the Participant to the Proceedings has understood their content and makes no objections to the content of the Procedure or the Documentation and undertakes to follow and comply with the provisions of all the above-mentioned documents (Schedule No 6);
- g) a declaration of the Participant to the Proceedings on resolving disputes concerning the Proceedings (Schedule No 7), and
 - h) a declaration of the Participant to the Proceedings with content indicated in Schedule No 8 hereto.
14. The declarations mentioned in section XIII.13(e-h) hereof shall be made in forms that are enclosed hereto, without any deletions or annotations, unless the content of a relevant form enclosed to the Procedure provides for otherwise explicitly. The declarations mentioned in section XIII.13(e)-(h) hereof shall be filled out properly and signed by a person or persons duly authorised to represent the Participant to the Proceedings according to the rules of representing the Participant to the Proceedings or by a duly authorised attorney of the Participant to the Proceedings. The duty to prove the authorization of a person or persons mentioned in the preceding sentence shall fall exclusively to the Participant to the Proceedings. An Offer that does not fulfil the requirements set forth in the content of this subsection shall be deemed not to full all the requirements set forth in the Procedure and shall be rejected without consideration.
15. If a Participant to the Proceedings has his registered office or domicile outside the territory of the Republic of Poland, instead of documents mentioned in section XIII.13(a-c) hereof, the Participant to the Proceedings shall submit a declaration of a competent court or public administration authority or another entity competent for the registered office or domicile of the Participant to the Proceedings, determining his legal status as well as document(s) issued in the country where the Participant to the Proceedings has his registered office or domicile indicating a person(s) authorised to represent the Participant to the Proceedings and confirming accordingly: the on-going business operations of the Participant to the Proceedings, current payments of taxes by the Participant to the Proceedings and no tax arrears of the Participant to the Proceedings and that the Participant to the

Proceedings is not in arrears with payments of social insurance premiums. The documents mentioned in the preceding sentence shall be valid and shall be prepared not earlier than on the day of publishing the first invitation to participate in the Proceedings.

16. If in the country of the registered office or domicile of the Participant to the Proceedings no documents mentioned in section XIII.13(a)-(c) hereof are issued, the Participant to the Proceedings shall replace them in the Proceedings with documents that contain a declaration of the Participant to the Proceedings in which, in addition to information indicated in section XIII.13(a-c) hereof, persons authorised to represent the Participant to the Proceedings have to be indicated as well. A declaration mentioned in the preceding sentence shall be submitted before a competent court or administrative authority or a commercial chamber authority of a relevant country of the registered office or domicile of the Participant to the Proceedings or before a notary public, and if the Participant to the Proceedings is not an individual who submits a declaration personally, a declaration shall also include a certification by a competent court or administrative authority or a commercial chamber authority of a relevant country of the registered office or domicile of the Participant to the Proceedings or a notary public of the due representation of the Participant to the Proceedings when submitting the declaration. The documents mentioned in the preceding sentence shall be valid and shall not be prepared earlier than on the day of publishing the first invitation to participate in the Proceedings.
17. A Participant to the Proceedings shall have the right to submit with an Offer additional documents that confirm the fulfilment by the Participant to the Proceedings of the conditions for the participation in the Proceedings and the fulfilment of the selection criteria or enable the assessment or verification of his legal and economic situation or the assessment of the reliability of the Offer made.
18. The following regulations of the Civil Code shall not apply to an Offer: art.66², art.67, art.68², art.69, art.70, art.70², art.70³ § 1 and § 3.
19. All amounts expressed in foreign currencies in the Offers or other documents submitted together with the Offers will be converted into Polish zlotys for the purposes of the Proceedings according to the exchange rate of the relevant foreign currency specified in Table A announced by the National Bank of Poland on the day on which the invitation to participate in the Proceedings, referred to in section VII.1 of the Procedure, will be published.

XIV. OFFER DEPOSIT

1. A condition for participating in the Proceedings and having the Offer considered is the payment by a Participant to the Proceedings of the whole amount of an Offer deposit according to the provisions hereof before the deadline for making Offers set in section XVI.1 hereof.
2. An Offer deposit may be paid exclusively with money, with a transfer to the bank account of ZMPSiŚ S.A. Account number in IBAN standard: PL 28 1240 3826 1111 0000 4403 0937; name and address of the bank maintaining the account: B Bank PEKAO S.A., III Oddział Szczecin, Pl. Orła Białego nr 3, 70-952 Szczecin; SWIFT / BIC: PKOPPLPW.
3. An Offer deposit in the Proceedings shall amount to PLN 5,000,000.00 (five million zlotys).
4. A date of paying an Offer deposit in the Proceedings shall be a date (day and time) of crediting the bank account of ZMPSiŚ S.A. indicated in section XIV.2 hereof.
5. An Offer deposit paid by a Participant to the Proceedings eliminated from the further participation in the Proceedings, including interest due under a bank account agreement on which it has been maintained, net of bank fees and bank costs for the transfer of money to the bank account of the Participant to the Proceedings, if any, shall be reimbursed to the bank account indicated in the content of the Offer made by a Participant to the Proceedings concerned, who has paid the Offer deposit, within 10 (ten) days of the date of adopting a resolution mentioned in section XI.10 hereof.

6. An Offer deposit paid by a Participant to the Proceedings with whom the Preliminary Agreement is signed shall be retained by ZMPSiS S.A. until the execution of the Final Agreement, to secure claims of ZMPSiS S.A. against the Participant to the Proceedings. If at the time of executing the Final Agreement the whole or any part of an Offer deposit remains at the disposal of ZMPSiS S.A., the whole amount of the Offer deposit paid by the Participant to the Proceedings and remaining at the disposal of ZMPSiS S.A., with whom the Preliminary Agreement is executed, shall be credited for liabilities of ZMPSiS S.A. under the Final Agreement.
7. An Offer deposit paid by a Participant to the Proceedings with whom a Preliminary Agreement is not executed, including interest due under a bank account agreement on which it has been maintained, net of bank fees and bank costs for the transfer of money to the bank account of the Participant to the Proceedings, if any, shall be reimbursed to the bank account indicated in the content of the Offer made by a Participant to the Proceedings concerned, who has paid the Offer deposit, within 10 (ten) days of the date of adopting a resolution mentioned in section XI.13 hereof.
8. If the Proceedings are closed without a resolution, an Offer deposit paid by Participants to the Proceedings, including interest due under a bank account agreement on which it has been maintained, net of bank fees and bank costs for the transfer of money to the bank account of the Participant to the Proceedings, if any, shall be reimbursed to the bank account indicated in the content of the Offer made by a Participant to the Proceedings concerned, who has paid the Offer deposit, within 10 (ten) days of the date of adopting a resolution mentioned in section XI.8 hereof.
9. ZMPSiS S.A. shall have the right to retain an Offer deposit paid by a Participant to the Proceedings invited to the 2nd stage of the Proceedings together with interest due under an agreement on a bank account on which it has been maintained and ZMPSiS S.A. shall not be obliged to reimburse the Offer deposit or interest on the Offer deposit resulting from the agreement on the bank account on which it has been maintained, in the following cases:
 - a) the Participant to the Proceedings invited to the 2nd stage of the Proceedings evades entering into negotiations mentioned in section III.4(b)(ii) hereof;
 - b) the Participant to the Proceedings invited to the 2nd stage of the Proceedings breaks off negotiations mentioned in section III.4(b)(ii) hereof;
 - c) the Participant to the Proceedings invited to the 2nd stage of the Proceedings evades executing the Preliminary Agreement;
 - d) if the execution of the Preliminary Agreement with the Participant to the Proceedings invited to the 2nd stage of the Proceedings has become infeasible for reasons that are attributable to the Participant to the Proceedings.
10. In the cases mentioned in section XIV.9 hereof, the Participant to the Proceedings invited to the 2nd stage of the Proceedings shall not be entitled to lodge any claims against ZMPSiS S.A.; therefore, the application of art.70⁴ § 2 the last sentence of the Civil Code shall be excluded.
11. A date of debiting a bank account of ZMPSiS S.A. shall be binding for meeting deadlines set in this section hereof.

XV. PACKAGING AND MARKING OF AN OFFER

1. A Participant to the Proceedings shall submit an Offer in a packaging at the discretion of the Participant to the Proceedings that prevents becoming acquainted with the content of the Offer without opening the packaging and prevents its opening or re-closing the packaging of an Offer made by the Participant to the Proceedings without leaving traces after its opening.
2. An Offer shall be made in a single closed and non-transparent packaging. A Participant to the Proceedings shall place the marking of a name (firm) of the Participant to the Proceedings with a mailing address of the Participant to the Proceedings in a permanent manner on an external packaging of an Offer.
3. A Participant to the Proceedings shall place the following legible note on the packaging of an Offer: *'Oferta Świnoujście' (Świnoujście Offer)* and *'Nie otwierać' (Do not open)*.

4. The duty to properly pack and mark an Offer shall fall exclusively to a Participant to the Proceedings.
5. If an Offer is not packaged properly or if a packaging of an Offer does not fulfil the requirements set forth in the Procedure or resulting from the practice and customary methods in the above-mentioned scope, Participants to the Proceedings shall not be entitled to any claims against ZMPsiS S.A., members of authorities of ZMPsiS S.A., members of the Commission or persons employed by or collaborating with ZMPsiS S.A.

XVI. DEADLINE AND PLACE OF MAKING OFFERS

1. A deadline for making Offers shall be ~~15 April~~ 2021, 3.00 p.m.
2. Offers may be made before the deadline indicated in section XVI.1 hereof, exclusively in the following places:
 - a) personally in room No 1 at the registered office of ZMPsiS S.A. in Szczecin, at 7 Bytomska street, or
 - b) by mail or courier service delivered to the address of ZMPsiS S.A. in Szczecin, at 7 Bytomska street.
3. Offers shall be registered by a representative of ZMPsiS S.A. in the order of submission at a suitable place indicated in section XVI.2 hereof.
4. A date of making an Offer shall be considered to be:
 - a) as regards Offers made personally – a moment of confirming a receipt by a representative of ZMPsiS S.A. of a package containing an Offer issued to a representative of ZMPsiS S.A. at the place set forth in section XVI.2(a) hereof; or
 - b) as regards Offers sent by mail or courier service – a moment of confirming a receipt by a representative of ZMPsiS S.A. of a package containing an Offer issued to a representative of ZMPsiS S.A. at the place set forth in section XVI.2(b) hereof.
5. ZMPsiS S.A. shall have the right to refuse to accept an Offer that is made after the deadline indicated in section XVI.2 hereof or made in a place other than indicated in section XVI.2 hereof.
6. All Offers made after the deadline set in section XVI.1 hereof or made at a place other than indicated in section XVI.2 hereof shall be deemed to be invalid and shall be rejected without consideration.

– usunięto: 28 January

XVII. DATE AND PLACE OF OPENING OFFERS

1. Offers made before the deadline set in section XVI.1 hereof shall be opened on ~~16 April~~ 2021 at 10.00 a.m.
2. A place of the public opening of Offers made in the Proceedings before the deadline set in section XV.1 hereof shall be the registered office of ZMPsiS S.A. in Szczecin at 7 Bytomska street.

– usunięto: 29 January

XVIII. EXECUTION OF A FINAL AGREEMENT AND A PRELIMINARY AGREEMENT

1. The complete content of the Final Agreement and the Preliminary Agreement shall be determined in negotiations conducted with a Participant to the Proceedings concerned, mentioned in section III.4(b)(ii) hereof, in relation to section VIII.3 hereof.
2. Art.72 § 1 Civil Code shall not apply to negotiations mentioned in section III.4(b)(ii) hereof. The execution of the Preliminary Agreement shall require explicit declarations of intent of ZMPsiS S.A. and a Participant to the Proceedings invited to the 2nd stage of the Proceedings submitted in the form of a notarial deed.
3. Any fees and taxes related to or resulting from the execution of the Preliminary Agreement and the Final Agreement shall be borne in whole by a Participant to the Proceedings concerned, being a party to those Agreements.

4. If any of the conditions set forth in the Preliminary Agreement is not fulfilled, ZMPSiS S.A. shall not be obliged to execute the Final Agreement.
5. Notwithstanding any other provisions hereof, if any of the conditions set forth in the Preliminary Agreement are not fulfilled, such an event shall not be considered as the evasion by ZMPSiS S.A. of executing the Final Agreement or default on any of the duties of ZMPSiS S.A., and if such an event occurs, the Participant to the Proceedings being a party to such agreements shall not be entitled to any claims against ZMPSiS S.A., members of authorities in ZMPSiS S.A. or any other persons.

XIX. FINAL PROVISIONS

1. The provisions hereof shall not violate any applicable regulations of Law or the provisions of the Statute. If any discrepancies occur between the provisions of the Procedure and Law or the Statute, Law or the Statute shall prevail.
2. If any discrepancies occur between the provisions of the Procedure and the content of the Documentation, the Procedure shall prevail.
3. Schedules shall be an integral part hereof.
4. Taking any actions in the course of the Proceedings, including but not limited to making an Offer, shall mean a confirmation that a Participant to the Proceedings has become acquainted with the wording of the Procedure current as of the date of its application, understands its content, accepts the Procedure without any reservations and undertakes to follow and apply all the provisions of the Procedure in the Proceedings.
5. Should any provision of the Procedure prove invalid, ineffective or incomplete or, according to Law or a final and binding ruling of a court or public administration authority, is deemed to be invalid, ineffective or incomplete, such invalidity, ineffectiveness or incompleteness shall not effect the validity or effectiveness of any other provisions hereof.
6. Law and the Statute shall apply to the Proceedings and the Procedure.
7. The Procedure, the Documentation, the invitation to participate in the Proceedings and any other documents concerning the Proceedings or prepared by ZMPSiS S.A. in relation to the Proceedings shall not constitute: an offer in the meaning of art.66 § 1 Civil Code or art.66^a § 1 Civil Code, an announcement of an auction or a tender in the meaning of art.70^a Civil Code or an invitation to execute an agreement mentioned in art.71 Civil Code.
8. The Procedure shall come into effect on 16 November 2020.

LIST OF SCHEDULES TO THE PROCEDURE:

1. An approximate location of the Real Estate (map).
2. General information about the anticipated method of using the future real estate located within the borders of the seaport in Świnoujście designated for operating a container terminal according to a concept proposed and implemented by a user.
3. Information form of the intentions of a Participant to the Proceedings.
4. Form of declaration mentioned in section XIII.12(f)(i)-(iii) of the Procedure.
5. Form of declaration mentioned in section XIII.12(f)(iv)-(vi) of the Procedure.
6. Form of declaration mentioned in section XIII.12(f)(vii)-(viii) of the Procedure.
7. Form of declaration mentioned in section XIII.12(g) of the Procedure.
8. Form of declaration mentioned in section XIII.12(h) of the Procedure.
9. List of Arbiters.
10. Form of order for an Arbiter.
11. Criteria of Offer assessment and their weights.
12. Military mobility requirements.