

NOTICES FROM MEMBER STATES

Communication from the Government of the Republic of Poland concerning Directive 94/22/EC of the European Parliament and of the Council on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons

(2016/C 365/04)

PUBLIC INVITATION TO BID FOR A CONCESSION FOR THE PROSPECTION AND EXPLORATION OF OIL AND NATURAL GAS DEPOSITS AND THE EXTRACTION OF OIL AND NATURAL GAS IN THE 'PROSZOWICE' AREA

SECTION I: LEGAL BASIS

1. Article 49h(2) of the Geological and Mining Law Act (Journal of Laws (*Dziennik Ustaw*) 2015, item 196, as amended)
2. Cabinet Regulation of 28 July 2015 on bidding for concessions for the prospection and exploration of hydrocarbon deposits and the extraction of hydrocarbons, and concessions for the extraction of hydrocarbons (Journal of Laws 2015, item 1171)
3. Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons (OJ L 164, 30.6.1994, p. 3; Special Edition in Polish: Chapter 6, Volume 2, p. 262)

SECTION II: ENTITY INVITING BIDS

Name: Ministry of the Environment
 Postal address: ul. Wawelska 52/54, 00-922 Warsaw, Poland
 Tel. +48 223692449, +48 223692447; Fax +48 223692460
 Website: www.mos.gov.pl

SECTION III: SUBJECT OF THE PROCEDURE

1) **Type of activities for which the concession is to be granted:**

Concession for the prospection and exploration of oil and natural gas deposits and the extraction of oil and natural gas in the 'Proszowice' area, concession blocks 373, 374 and 393.

2) **Area within which the activities are to be conducted:**

The boundaries of the area covered by this bidding procedure are defined by lines joining points with the following coordinates in the PL-1992 coordinate system:

Point No	X [PL-1992]	Y [PL-1992]
1	265 797,369	606 784,682
2	256 877,580	606 993,250
3	256 866,895	601 531,158
4	265 972,196	601 470,879
5	265 785,258	594 508,986
6	256 792,099	594 610,492
7	256 861,670	598 860,040
8	251 837,130	598 803,240
9	245 959,166	604 332,289
10	240 684,937	604 381,020
11	240 244,081	603 139,260
12	238 495,594	597 181,464
13	238 486,801	597 044,425
14	254 726,425	579 328,472

Point No	X [PL-1992]	Y [PL-1992]
15	265 370,279	579 332,115
16	269 669,762	596 654,081
17	284 288,245	596 762,366
18	284 357,997	606 534,408
19	266 162,867	623 612,266

The surface area of the vertical projection of the area covered by this bidding procedure is 818,29 km².

The area covered by the bidding procedure is located in the following districts and municipalities in

Małopolskie Province:

Kraków district, municipalities of Słomniki (2,04 % of the area), Kocmyrzów-Luborzyca (3,97 %), Igołomia-Wawrzeńczyce (6,30 %),

City of Kraków district, Kraków urban municipality (0,29 %),

Proszowice district, municipalities of Radziemice (3,57 %), Paęcznica (2,74 %), Koniusza (10,81 %), **Proszowice (7,17 %)**, Nowe Brzesko (2,94 %), Koszyce (0,18 %),

Wieliczka district, municipalities of Niepołomice (3,86 %), Kłaj (2,29 %),

Bochnia district, municipalities of Drwinia (7,05 %), Bochnia (0,98 %),

Dąbrowa district, municipality of Gręboszów (0,01 %);

Świętokrzyskie Province:

Pińczów district, municipalities of Michałów (0,04 %), Pińczów (1,47 %), Działoszyce (5,47 %), Złota (3,43 %),

Kazimierza Wielka district, municipalities of Skalbmierz (8,81 %), Czarnocin (8,43 %), Kazimierza Wielka (12,44 %), Bejsce (1,80 %), Opatowiec (3,91 %),

Busko-Zdrój district, municipality of Wiślica (< 0,01 %).

The aim of the works to be carried out in Jurassic and Cretaceous formations is to document and extract oil and natural gas in the area described above.

3) Time limit, not less than 90 days from the date of publication of the notice, and place for the submission of bids:

Bids must be submitted to the headquarters of the Ministry of the Environment no later than 16:00 CET/CEST on the last day of the 91-day period commencing on the day following the date of publication of the notice in the *Official Journal of the European Union*.

4) Detailed bid specifications, including the bid evaluation criteria and a specification of their weighting, ensuring that the conditions referred to in Article 49k of the Geological and Mining Law Act of 9 June 2011 are fulfilled:

Bids may be submitted by entities in respect of which a decision has been issued confirming the positive outcome of a qualification procedure, as provided for in Article 49a(16)(1) and (2) of the Geological and Mining Law Act, independently, or as the operator if several entities are applying jointly for the concession.

Bids received will be evaluated by the bid evaluation committee on the basis of the following criteria:

- 30 % — financial capacities offering an adequate guarantee that activities relating to, respectively, the prospection and exploration of hydrocarbon deposits and the extraction of hydrocarbons will be carried out, and in particular the sources and methods of financing the intended activities, including the share of own funds and external financing;
- 25 % — technical capacities for, respectively, the prospection and exploration of hydrocarbon deposits and the extraction of hydrocarbons, and in particular the availability of appropriate technical, organisational, logistical and human resources potential;
- 20 % — scope and scheduling of the geological works, including geological operations, or mining operations proposed;
- 10 % — experience in the prospection and exploration of hydrocarbon deposits or the extraction of hydrocarbons, ensuring safe operation, the protection of human and animal life and health, and environmental protection;

10 % — the proposed technology for conducting geological works, including geological operations, or mining operations, using innovative elements developed for this project;

5 % — scope and scheduling of the mandatory collection of samples obtained during geological operations, including drill cores.

If, following the evaluation of bids on the basis of the criteria specified above, two or more bids obtain the same score, the amount of the fee for the establishment of mining usufruct rights due during the prospection and exploration phase will be used as an additional criterion allowing a final choice to be made between the bids concerned.

5) **Minimum scope of geological information:**

Concession data	name of area: Proszowice location: onshore; concession blocks 373, 374 and 393;
Type of deposit	conventional oil and natural gas deposits
Structural levels	Cenozoic Mesozoic Paleozoic
Petroleum systems	Paleozoic-Mesozoic
Source rocks	Ordovician, Silurian, Devonian, Carboniferous and Middle Jurassic rocks
Reservoir rocks	Cenomanian glauconitic sandstones (Upper Cretaceous) and litho-Rauracian detrital limestone (Upper Jurassic, lower division of Upper Oxfordian)
Seal rocks	Senonian marl (higher division of Upper Cretaceous) and formations of the Carpathian Foredeep (Cracovian strata)
Thickness of overburden	350-750 m
Trap type	structural
Deposits identified in the vicinity (NG — natural gas; O — oil)	<p>Ławowice (O) — discovered in 1964; cumulative production over 50 years: 610 710 tonnes; production in 2014: 4 580 tonnes; reserves and resources: 92 490 tonnes (industrial: 20 130 tonnes)</p> <p>Grobla (O) — discovered in 1962; cumulative production over 52 years: 2 822 590 tonnes and 145 020 000 m³ of associated gas; production in 2014: 4 430 tonnes; reserves and resources: 48 300 tonnes (industrial: 21 050 tonnes)</p> <p>Mniszów (O) — discovered in 1966, not exploited</p> <p>Dąbrówka (NG) — discovered in 1976; cumulative production over 38 years: 425 350 000 m³; production in 2014: 1 230 000 m³; reserves and resources: 30 850 000 m³ (industrial: 8 020 000 m³)</p> <p>Grądy Bocheńskie (NG) — discovered in 1985; cumulative production over 18 years: 166 900 000 m³; production in 2014: none; reserves and resources: 39 170 000 m³ (industrial: 14 050 000 m³)</p> <p>Rajsko (NG) — discovered in 1997; cumulative production over 3 years: 20 630 000 m³; production in 2014: 6 730 000 m³; reserves and resources: 142 370 000 m³ (industrial: 54 370 000 m³)</p> <p>Ryłowa (NG) — discovered in 1988; cumulative production over 4 years: 66 460 000 m³; production in 2014: 27 110 000 m³; reserves and resources: 478 540 000 m³ (industrial: 175 160 000 m³)</p> <p>Rysie (NG) — discovered in 1985; cumulative production over 25 years: 75 810 000 m³; production in 2014: 740 000 m³; reserves and resources: 15 960 000 m³ (industrial: 1 470 000 m³)</p> <p>Szczepanów (NG) — discovered in 1990; cumulative production over 16 years: 707 240 000 m³; production in 2014: 9 870 000 m³; reserves and resources: 206 960 000 m³ (industrial: 116 620 000 m³)</p> <p>Łazy (NG) — discovered in 1995; cumulative production over 7 years: 12 480 000 m³; production in 2014: none; reserves and resources: 13 400 000 m³ (industrial: none)</p> <p>Łętowice-Bogumiłowice (NG) — discovered in 1993; cumulative production over 18 years: 137 580 000 m³; production in 2014: 400 000 m³; reserves and resources: 110 870 000 m³ (industrial: 21 150 000 m³)</p>

Seismic surveys completed (owner)	1975 Kazimierza Wielka-Dąbrowa Tarnowska 2D (State Treasury) 1977-1978 Bochnia-Czchów-Pilzno 2D (State Treasury) 1987-1988 Kazimierza Wielka-Pińczów-Nowy Korczyn 2D (State Treasury) 1987-1988 Niepołomice-Gdów-Myslenice 2D (State Treasury) 1989-1990 Kazimierza Wielka-Pińczów-Nowy Korczyn 2D (PGNiG) 1991-1993 Słomniki-Pińczów 2D (PGNiG) 1993 Liplas-Grobla-Żukowice 2D (PGNiG) 2003 Puszcza-Krzeczów-Borek 2D (State Treasury)
Benchmark wells (TVD)	Puszcza-14 (1 642 m), Dodów 2 (1 267 m), Kózki 1 (800 m)

6) **Commencement date of activities:**

The activities covered by the concession will commence within 14 days from the date on which the decision granting the concession becomes final.

7) **Conditions for granting the concession, in particular concerning the amount, scope and manner of providing the security referred to in Article 49x(1) of the Geological and Mining Law Act and, where justified, the amount, scope and manner of providing the security referred to in Article 49x(2) of that Act:**

The successful bidder is required to provide a security covering non-compliance or inadequate compliance with the conditions laid down in the concession and for financing the closure of mine workings if the concession expires, is withdrawn or becomes invalid. This security is to be provided for the period from the date on which the concession is granted until the end of the prospection and exploration phase. The amount of the security is PLN 100 000. The form and date of its payment are governed by Article 49x(4) and (5) of the Geological and Mining Law Act.

8) **Minimum scope of geological works, including geological operations, or mining operations:**

The minimum programme of geological works proposed for the prospection and exploration phase comprises:

Stage I duration: 12 months

scope: interpreting and analysing archival geological data

Stage II duration: 12 months

scope: executing 2D seismic surveys (100 km) or drilling one borehole to a maximum depth of 2 000 m, with mandatory coring of prospective intervals

Stage III duration: 24 months

scope: drilling one borehole to a maximum depth of 2 000 m, with mandatory coring of prospective intervals

Stage IV duration: 12 months

scope: analysing the data obtained

9) **Period for which the concession is to be granted:**

The concession period is 10 years, including:

— a prospection and exploration phase of five years' duration, starting from the date on which the concession is granted,

— an extraction phase, starting from the date on which an investment decision is obtained.

10) **Specific conditions for carrying out the activities and for ensuring public safety, public health, environmental protection and rational management of deposits:**

Implementation of the concession work programme must not infringe landowners' rights and does not remove the need to comply with other requirements laid down in legislation, in particular the Geological and Mining Law Act, and requirements regarding land use, environmental protection, agricultural land and forests, nature, waters and waste.

11) Model agreement on the establishment of mining usufruct rights:

The model agreement is attached as an annex hereto.

12) Information concerning the amount of the fee for establishing mining usufruct rights:

The minimum amount of the fee for establishing mining usufruct rights for the 'Proszowice' area during the five-year base period is PLN 173 902,99 (in words: one hundred and seventy-three thousand nine hundred and two zlotys and ninety-nine grosz) per annum. The annual fee for establishing mining usufruct rights for the purpose of the prospection and exploration of minerals is indexed to average annual consumer price indices set cumulatively for the period from the conclusion of the agreement until the year preceding the date for payment of the fee, as announced by the President of the Central Statistical Office in the *Monitor Polski* (Official Gazette) (Article 49h(3)(12) of the Geological and Mining Law Act).

13) Information concerning requirements to be met by bids and documents required from bidders:

1. Bids should specify:

- 1) the name (business name) and the registered office of the bidder;
- 2) the subject of the bid, together with a description defining the area within which the concession is to be granted and mining usufruct rights are to be established;
- 3) the period for which the concession is to be granted, the duration of the prospection and exploration phase and the commencement date of the activities;
- 4) the aim, scope and nature of the geological works, including geological operations, or mining operations and information about the works to be carried out to achieve the intended objective and the technologies to be used;
- 5) a timetable, broken down into years, for the geological works, including geological operations, and the scope of such works;
- 6) the scope and timetable of the mandatory collection of samples obtained during geological operations, including drill cores, as referred to in Article 82(2)(2) of the Geological and Mining Law Act;
- 7) rights held by the bidder to the real property (area) within which the intended activities are to be carried out, or the right for the establishment of which that entity is applying;
- 8) a list of areas covered by nature conservation schemes; this requirement does not concern projects for which a decision on environmental conditions is required;
- 9) the way in which the adverse environmental impacts of the intended activities are to be counteracted;
- 10) the scope of the geological information available to the bidder;
- 11) experience in the prospection and exploration of hydrocarbon deposits or the extraction of hydrocarbons, ensuring safe operation, the protection of human and animal life and health, and environmental protection;
- 12) technical capacities for, respectively, the prospection and exploration of hydrocarbon deposits and the extraction of hydrocarbons, and in particular the availability of appropriate technical, organisational, logistical and human resources potential;
- 13) financial capacities offering an adequate guarantee that activities relating to, respectively, the prospection and exploration of hydrocarbon deposits and the extraction of hydrocarbons will be carried out, and in particular the sources and methods of financing the intended activities, including the share of own funds and external financing;
- 14) the proposed technology for conducting the geological works, including geological operations, or mining operations;
- 15) the proposed amount of the fee for establishing mining usufruct rights, this being not less than the amount specified in the notice launching the bidding procedure;
- 16) the proposed form of lodging the security referred to in Article 49x(4) of the Geological and Mining Law Act;

- 17) if a bid is submitted jointly by several entities, it must additionally specify:
 - a) the names (business names) and the registered offices of all the entities submitting the bid;
 - b) the operator;
 - c) the percentage shares in the costs of the geological works, including geological operations, proposed in the cooperation agreement.
2. Bids submitted in a bidding procedure should meet the requirements and conditions laid down in the notice launching that bidding procedure.
3. The following documents are to be enclosed with bids:
 - 1) evidence of the existence of the circumstances described in the bid, in particular extracts from the relevant registers;
 - 2) proof that a deposit has been lodged;
 - 3) a copy of the decision confirming the positive outcome of a qualification procedure, as provided for in Article 49a(17) of the Geological and Mining Law Act;
 - 4) graphical annexes prepared in accordance with the requirements relating to mining maps, indicating the country's administrative boundaries;
 - 5) written undertakings to make technical resources available to the entity taking part in the bidding procedure if other entities' technical resources are used when implementing the concession;
 - 6) two copies of the geological operations project file.
4. Bidders may, on their own initiative, provide additional information in their bids or attach additional documents thereto.
5. Documents submitted by bidders should be originals or certified true copies of originals as provided for in the Code of Administrative Procedure. This requirement does not apply to copies of documents which are to be attached to bids and were created by the concession authority.
6. Documents drawn up in a foreign language should be submitted together with a translation into Polish by a sworn translator.
7. Bids are to be submitted in a sealed envelope or a sealed package bearing the name (business name) of the bidder and indicating the subject of the bidding procedure.
8. Bids submitted after the expiry of the time limit for the submission of bids will be returned to the bidders unopened.
- 14) **Information concerning the manner of lodging a deposit, the amount of the deposit and the payment date:**

Bidders are required to lodge a deposit of PLN 1 000 (in words: one thousand zlotys) before the expiry of the time limit for the submission of bids.

SECTION IV: ADMINISTRATIVE INFORMATION

IV.1) Bid evaluation committee

A bid evaluation committee is appointed by the concession authority for the purpose of conducting the bidding procedure and selecting the most advantageous bid. The composition and rules of procedure of the committee are specified in the Cabinet Regulation of 28 July 2015 on bidding procedures for concessions for the prospection and exploration of hydrocarbon deposits and the extraction of hydrocarbons, and for concessions for the extraction of hydrocarbons (Journal of Laws 2015, item 1171). The bid evaluation committee submits a report on the bidding procedure to the concession authority for approval. Together with bids and all documents related to the bidding procedure, the report is open to other entities submitting bids.

IV.2) Additional explanations

Within seven days from the date of publication of the notice, an interested entity may request the concession authority to provide explanations concerning the detailed bid specifications. Within seven days from the receipt of the request, the concession authority will publish the explanations in the *Biuletyn Informacji Publicznej* (Public Information Bulletin), on the page of the administrative office subordinate to that authority.

IV.3) Additional information

Full information about the area covered by the bidding procedure has been compiled by the Polish Geological Service in the *Pakiet danych geologicznych* (Geological Data Pack), which is available on the Ministry of the Environment website (www.mos.gov.pl) and from the

Departament Geologii i Koncesji Geologicznych [Department of Geology and Geological Concessions]

Ministerstwo Środowiska [Ministry of the Environment]

ul. Wawelska 52/54

00-922 Warszawa

POLSKA/POLAND

Tel. +48 223692449

Fax +48 223692460

ANNEX

AGREEMENT

establishing mining usufruct rights for the prospection and exploration of oil and natural gas deposits and the extraction of oil and natural gas in the 'Proszowice' area

concluded at Warsaw on 2016 between:

the State Treasury, represented by the Minister for the Environment, for and on behalf of whom Mr Mariusz Orion Jędrysek, State Secretary at the Ministry of the Environment and Chief Geologist of Poland, acts under power of attorney No 5 of 27 January 2016, hereinafter referred to as the 'State Treasury'

and

XXX, having its registered office at: (full address)

hereinafter referred to as the 'Holder of Mining Usufruct Rights',

worded as follows:

Section 1

1. The State Treasury, as exclusive owner of the substrata of the Earth's crust covering the area within the municipalities of: Kocmyrzów-Luborzyca, Igołomia-Wawrzeńczyce, Radziemice, Pałecznicza, Koniusza, Koszyce, Kłaj, Drwinia, Bochnia and Gręboszów, the towns and municipalities of: Słomniki, Proszowice, Nowe Brzesko and Niepołomice, and the city of Kraków in Małopolskie Province and within the municipalities of: Michałów, Złota, Czarnocin, Bejsce, Opatowiec and Wiślica, and the towns and municipalities of: Pińczów, Działoszyce, Skalbierz and Kazimierza Wielka in Świętokrzyskie Province, the boundaries of which are defined by lines joining points (1 to 19) having the following coordinates in the PL-1992 coordinate system:

No	Coordinates	
	X	Y
1	265 797,369	606 784,682
2	256 877,580	606 993,250
3	256 866,895	601 531,158
4	265 972,196	601 470,879
5	265 785,258	594 508,986
6	256 792,099	594 610,492
7	256 861,670	598 860,040
8	251 837,130	598 803,240
9	245 959,166	604 332,289
10	240 684,937	604 381,020
11	240 244,081	603 139,260
12	238 495,594	597 181,464
13	238 486,801	597 044,425
14	254 726,425	579 328,472
15	265 370,279	579 332,115
16	269 669,762	596 654,081
17	284 288,245	596 762,366

No	Coordinates	
	X	Y
18	284 357,997	606 534,408
19	266 162,867	623 612,266

hereby establishes mining usufruct rights for the Holder of Mining Usufruct Rights in the area described above, limited above by the lower boundary of surface land properties and beneath by the floor of Jurassic formations, provided that the Holder of Mining Usufruct Rights obtains a concession for the prospection and exploration of oil and natural gas deposits and the extraction of oil and natural gas in the 'Proszowice' area within one year from the date of the agreement establishing the mining usufruct rights.

2. If the condition of obtaining the concession referred to in paragraph 1 is not met, the obligations arising under the agreement shall expire.
3. Within the rock mass area specified in paragraph 1, the Holder of Mining Usufruct Rights may:
 1. in Jurassic and Cretaceous formations, carry out activities relating to the prospection and exploration of oil and natural gas deposits and the extraction of oil and of natural gas; and
 2. in the rest of the area, carry out any works and activities that are necessary in order to gain access to the Jurassic and Cretaceous formations.
4. The surface area of the vertical projection of the area described above is 818,29 km².

Section 2

1. The agreement establishing mining usufruct rights shall take effect on the date on which the concession is obtained.
2. The mining usufruct rights shall be established for a period of 10 years, including five years for the prospection and exploration phase and five years for the extraction phase, subject to the provisions of Section 9.
3. The mining usufruct rights shall expire on the date on which the concession is terminated.

Section 3

1. The mining usufruct rights entitle the Holder of Mining Usufruct Rights to use the area specified in Section 1 on an exclusive basis for the prospection and exploration of oil and natural gas deposits and the extraction of oil and natural gas in the 'Proszowice' area, as well as for carrying out all operations and activities necessary for this purpose within that area in accordance with the legislation in force, in particular the Geological and Mining Law Act of 9 June 2011 (Journal of Laws (*Dziennik Ustaw*) 2015, item 196, as amended), hereinafter referred to as the 'Geological and Mining Law Act', and decisions issued pursuant thereto. During the prospection and exploration phase, the Holder of Mining Usufruct Rights may develop the minerals being explored only to the extent necessary to draw up geological and investment documentation.
2. The Holder of Mining Usufruct Rights undertakes to notify the State Treasury in writing of any changes resulting in a change of name or organisational form, changes in registration and identification numbers or increases or reductions in share capital, of the transfer of the concession to another entity by operation of law, the filing of a bankruptcy petition, the declaration of bankruptcy, the initiation of arrangement proceedings or the initiation of liquidation proceedings. The State Treasury may require that the necessary explanations be provided in such cases. Notification shall take place within 30 days from the date on which the circumstances referred to above occur.

Section 4

The agreement shall be without prejudice to the rights of third parties, in particular owners of land, and the Holder of Mining Usufruct Rights shall not be exempt from the need to comply with requirements provided for by law, in particular those relating to the prospection and exploration of minerals and the protection and use of environmental resources.

Section 5

The State Treasury reserves the right to establish within the area referred to in Section 1(1) mining usufruct rights for the purpose of carrying out activities other than those specified in the agreement, in a manner which does not infringe the rights of the Holder of Mining Usufruct Rights.

Section 6

1. The Holder of Mining Usufruct Rights shall pay the State Treasury the following fee for the mining usufruct rights in the area specified in Section 1(1) during the five-year prospection and exploration phase for each year of mining usufruct (counted as 12 consecutive months):
 - a) PLN (amount) (in words: zlotys) for the first year of usufruct, starting from the date on which the agreement took effect, within 30 days from the beginning of that year of mining usufruct;
 - b) PLN (amount) (in words: zlotys) for the second year of usufruct, starting from the date on which the agreement took effect, within 30 days from the beginning of that year of mining usufruct;
 - c) PLN (amount) (in words: zlotys) for the third year of usufruct, starting from the date on which the agreement took effect, within 30 days from the beginning of that year of mining usufruct;
 - d) PLN (amount) (in words: zlotys) for the fourth year of usufruct, starting from the date on which the agreement took effect, within 30 days from the beginning of that year of mining usufruct;
 - e) PLN (amount) (in words: zlotys) for the fifth year of usufruct, starting from the date on which the agreement took effect, within 30 days from the beginning of that year of mining usufruct;

— subject to the provisions of paragraph 2.
2. If the date for payment of the fee due for a given year of mining usufruct falls between 1 January and 1 March, the Holder of Mining Usufruct Rights shall pay the fee by 1 March. However, if the fee is subject to indexation in accordance with paragraphs 3 to 5, the Holder of Mining Usufruct Rights shall pay it no earlier than the date on which the index referred to in paragraph 3 is announced, after taking that index into account.
3. The fee specified in paragraph 1 shall be indexed to average annual consumer price indices set for the period from the conclusion of this agreement until the year preceding the date for payment of the fee, as announced by the President of the Central Statistical Office in the *Monitor Polski* (Official Gazette of the Republic of Poland).
4. If the date for payment of the fee falls in the same calendar year as that in which the agreement was concluded, the fee shall not be indexed.
5. If the agreement was concluded and took effect in the year preceding the year in which the date for payment of the fee falls, the fee shall not be indexed if the Holder of Mining Usufruct Rights pays it by the end of the calendar year in which the agreement is concluded and takes effect.
6. If the Holder of Mining Usufruct Rights loses the mining usufruct rights established under the agreement before the time limit specified in Section 2(1) and (2) expires, the Holder of Mining Usufruct Rights shall be required to pay the fee for the entire year of usufruct in which these rights were lost. If, however, the mining usufruct rights are lost as a result of the concession being withdrawn or for the reasons specified in Section 9(1), (3) or (4), the Holder of Mining Usufruct Rights shall pay the fee for the entire usufruct period specified in Section 2(1) and (2), taking into account indexation for the year preceding the termination of the agreement. The fee shall be paid within 30 days from the date on which the mining usufruct rights were lost. The loss of usufruct rights shall not release the Holder of Mining Usufruct Rights from environmental obligations relating to the subject of the mining usufruct rights, in particular obligations relating to the protection of deposits.
7. The Holder of Mining Usufruct Rights shall pay the fee for the mining usufruct rights into the bank account of the Ministry of the Environment at the Warsaw Branch of the National Bank of Poland, No 07 1010 1010 0006 3522 3100 0000, for the establishment of mining usufruct rights in connection with a concession for the prospection and exploration of oil and natural gas deposits and the extraction of oil and natural gas in the 'Proszowice' area.

The date of payment shall be the date on which the funds are credited to the State Treasury's account.

8. The fee specified in paragraph 1 shall not be subject to tax on goods and services (VAT). If legislation is amended to the effect that the activities which are the subject of this agreement are subject to taxation, the amount of the fee shall be increased by the amount of tax due.
9. The State Treasury shall notify the Holder of Mining Usufruct Rights in writing of changes in the number of the account referred to in paragraph 7.

10. The Holder of Mining Usufruct Rights shall send copies of proof of payment of the fee referred to in paragraph 1 to the State Treasury within seven days from the date of payment of the fee for the establishment of the mining usufruct rights.

Section 7

After the Holder of Mining Usufruct Rights obtains an investment decision specifying the conditions for the extraction of oil and natural gas, the parties shall, within 30 days from the date of that decision, sign an annex to this agreement specifying the conditions for the implementation of the agreement during the extraction phase.

Section 8

The Holder of Mining Usufruct Rights may exercise the mining usufruct rights established in Section 1(1) only after obtaining written consent from the State Treasury.

Section 9

1. If the Holder of Mining Usufruct Rights infringes obligations laid down in the agreement, the State Treasury may, subject to the provisions of paragraphs 3 and 4, terminate the agreement with immediate effect, without the Holder of Mining Usufruct Rights being entitled to make any property claims. However, the agreement shall not be terminated if the Holder of Mining Usufruct Rights has infringed obligations under the agreement due to *force majeure*.
2. If the agreement is terminated for the reasons specified in paragraph 1, the Holder of Mining Usufruct Rights shall pay the State Treasury a contractual penalty of 25 % of the fee for the entire usufruct period specified in Section 2(1) and (2), subject to indexation for the year preceding the year in which the agreement was terminated.
3. If the Holder of Mining Usufruct Rights delays payment of the fee by more than seven days beyond the deadlines specified in Section 6(1) or (2), the State Treasury shall request the Holder of Mining Usufruct Rights to pay the outstanding fee within seven days from the receipt of the request, failing which the agreement will be terminated with immediate effect.
4. The State Treasury may terminate the agreement in whole or in part by giving 30 days' notice, effective at the end of the calendar month, if the Holder of Mining Usufruct Rights does not inform the State Treasury of the circumstances referred to in Section 3(2) within 30 days from their occurrence.
5. The Holder of Mining Usufruct Rights shall be bound by the agreement until the date on which the concession is terminated and may not terminate the agreement.
6. The agreement shall be terminated in writing, failing which the termination shall not be valid.
7. The parties agree that if the State Treasury terminates the agreement, the fee paid for the mining usufruct rights, referred to in Section 6(1), shall not be reimbursed.
8. The State Treasury reserves the right to seek compensation in excess of the amount of contractual penalties on general terms if the amount of damage incurred by the State Treasury exceeds the contractual penalties.

Section 10

In the event of *force majeure*, the parties shall immediately make every effort to agree on a course of action. '*Force majeure*' shall be understood as an unexpected event which directly affects the Holder of Mining Usufruct Rights, prevents the performance of the activities to which the agreement relates and cannot be predicted or avoided.

Section 11

The Holder of Mining Usufruct Rights may apply for the extension of the agreement, in whole or in part, and must do so in writing, failing which the application will be invalid.

Section 12

If the agreement is terminated, the Holder of Mining Usufruct Rights shall not be entitled to make any claims against the State Treasury for an increase in the value of the subject of the mining usufruct rights.

Section 13

Any disputes arising out of the agreement shall be resolved by the ordinary court having jurisdiction over the seat of the State Treasury.

Section 14

In matters not governed by the agreement, the provisions of the Geological and Mining Law Act and of the Civil Code, in particular those relating to leases, shall apply.

Section 15

The Holder of Mining Usufruct Rights shall bear the costs of concluding the agreement.

Section 16

Amendments to the agreement shall be made in writing, failing which they shall not be valid.

Section 17

This agreement has been drawn up in three identical copies (one copy for the Holder of Mining Usufruct Rights and two copies for the Minister for the Environment).

State Treasury

Holder of Mining Usufruct Rights
