

## **SECTION I**

### **INSTRUCTIONS TO BIDDERS**

**INQUIRY No: 810/18/DDP**

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## **1. BACKGROUND**

Hellenic Gas Transmission System Operator (DESFA S.A.), was established in March 31, 2007 after the completion of the legal unbundling of the transmission and trading activities of the Public Gas Corporation (DEPA) S.A., in accordance with Law 3428/2005 for the liberalization of the Greek natural gas market.

The establishment of a National Natural Gas System (NNGS) constitutes one of the most important infrastructure projects in contemporary Greece. It is an energy project that is comparable in magnitude only to that of the electrification of the country.

The NNGS includes the main high pressure gas transmission pipeline from the Greek-Bulgarian borders to Attica, with a total length of 512 Km, high pressure branches linking the various regions of the country with a total length of 954 Km, the liquefied natural gas Terminal on the Islet of Revythoussa, as well as additional facilities and infrastructure that service the entire Gas Transmission System.

DESFA:

- Operates, maintains, manages and develops the NNGS and its interconnection points;
- Studies and implements, following the approval of the statutory bodies (RAE i.e. Regulatory Authority for Energy), the pricing policy and the process of transmitting natural gas on behalf of the system's shippers, who in turn make it available to the consumers; and
- Provides no discriminatory access to the NNGS, for every Shipper, wishing to develop commercial activities or direct procurement of natural gas for its own use, ensuring complete transparency, reliability and respect for the rules of competition.

The mission of DESFA is to establish a comprehensive, technically superior and cost-effective NNGS so that it:

- Meets the needs of natural gas users safely, adequately and reliably;
- Upgrades the participation of natural gas in the energy balance of Greece; and
- Allows the optimization of the competitive advantages of natural gas in public infrastructure, business activities and everyday life.

DESFA should provide natural gas transmission and LNG services to interested parties on an equal and non-discriminatory basis, according to the provisions of the Network Code as applicable from time to time (currently RAE Decision 123/2018 – Gazette 788/B/07.03.2018), concluding respective contracts with persons or legal entities (Shippers) that meet the respective prerequisites. Invoicing is carried out according to RAE's Decisions 871/2017 (Hellenic Government Gazette 3720/B/20.10.2017) and 997/2017 (Hellenic Government Gazette 4737/B/29.12.2017).

These contracts are based on the Standard Framework Agreement for the Transmission and LNG Facility Usage prepared by DESFA and approved by the Greek Regulatory Authority for Energy – RAE as applicable from time to time (currently RAE Decision 507/2018 – Government Gazette 2473/B/27.06.2018 and RAE Decision 257/2017 – Government Gazette 1443/B/27.04.2017). In these documents all the procedures, contents, terms and conditions for exercising the right to access the NNGS are determined.

Additionally, DESFA bears full responsibility for the balancing of the Hellenic Natural Gas Transmission System (NGTS) i.e. the balance between the Natural Gas Quantities

delivered to and off-taken from the NGTS. In order to fulfil its above-mentioned obligation, DESFA S.A., as a reasonable and prudent Operator, takes every action deemed necessary for the NGTS balance, within the framework of the Law 4001/2011, the Network Code and the Commission Regulation (EU) No 312/2014 of 26 March 2014, so as to assure its (NGTS) reliable, secure and efficient operation.

## **2. INTRODUCTION**

HELLENIC GAS TRANSMISSION SYSTEM OPERATOR (DESFA) S.A., hereinafter referred to as BUYER, invites eligible Bidders, to submit their Application for the selection process for the development of a list of Suppliers for:

Title : **Supply of LNG Quantity for performing Balancing Actions of the Hellenic Natural Gas Transmission System during the Years 2019 and 2020**

Budget : **€30.900.000,00 EUROS**, plus V.A.T. with the reservation of the right to increase the total budget by 30%.

**Total budget: €40.170.000,00 Euros**, plus V.A.T.

hereinafter referred to as the SUPPLY, as analytically described below.

The successful Bidder (-s) will be registered as Suppliers “SUPPLIER (-s)” in the developed list and enter into a Framework Agreement with the BUYER for the period of SUPPLY **starts the Day 01.01.2019 and ends the Day 31.12.2020** (hereinafter “Supply Period”). During the Supply Period, the BUYER shall address Requests to the SUPPLIER (-s) of the developed list to submit Offer (-s) for a specific LNG quantity for a specific period of time. The SUPPLIER who submits the Offer with the lowest price, with the reservation of the provisions of article 5.5 hereof in case of equal offers, will be the successful SUPPLIER (SELLER) every time.

The Tender shall be carried out via the tenderONE e-tendering platform provided by cosmoONE ([www.marketsite.gr](http://www.marketsite.gr)) (hereinafter also referred to as “the SYSTEM”).

Bidders shall be economic operators as per Article 37 of the European Directive 2014/25/EU (hereinafter referred to as “Directive”) who are Suppliers or Traders of Natural Gas or Groups or Joint Ventures or Consortia (as per Article 37 of the Directive, hereinafter referred to as GROUP(S) of Suppliers and/or Traders of Natural Gas, who shall prove that, according to the regulations of the country where they are registered, they are capable to execute SUPPLY and that they are allowed to take part to the selection process.

Bidders or, in case of GROUPS, at least the Leader having a minimum interest of 50% in the GROUP, shall prove his (their) financial status by showing an annual turnover for the last three fiscal years (2015, 2016 and 2017) of at least 61.8 million €.

The legal formation of a GROUP is not a prerequisite for participating in the present selection process. Bidders participating in a GROUP are not allowed to submit an Application solely or as a member of other GROUP or rely on the capacity of other entities of other GROUPS also participating in the same selection process.

Alternative Applications will not be accepted.

For publishing expenses of this Inquiry, an amount equal to € ....., shall be born (equally) by the Successful Bidder (-s).

All direct and indirect costs of any kind for the preparation of the Application by the Bidders shall be at Bidders' own cost.

### **3. APPLICABLE LEGISLATION**

3.1 This Inquiry is governed by the Laws of Greece and applicable EU Legislation, as per European Directive 2014/25/EU which shall be in general applicable to all relations between BUYER and the Bidders regardless of their nationality. Any dispute shall be subject to the exclusive jurisdiction of the Law Courts of Athens. Procedure for settlement of disputes during Tender is governed by the applicable law as per Book IV of Law N. 4412/2016.

Application evaluation shall be in accordance with present Instructions to Bidders.

3.2 The clauses regarding the registration of shares of S.A. businesses.

- P.D. 82/1996 “Registration of Greek Societies Anonyms” shares participating in the procedures for undertaking projects or commissions of the State or of Legal entities of wider public sector (HGG 66 a'/11.04.1996);
- L. 3310/2005 (HGG 30 A'/14.02.2005) “Steps for ensuring transparency and avoiding violations during the signing of public contracts”, as amended and valid after L.3414/2005 (HGG 279 A'/10.11.2005); and
- Joint Ministerial Decision 20977/23.08.2007 (HGG 1673B'/23.08.2007) “Supporting documents for keeping the registries provided for by the law 3310/2005, as amended by Law 3414/2005”.

Bidders that are registered in the Stock Market of the country where their seat is registered are exempted from the above clauses. These companies must submit a solemn statement signed by their legal representative, stating that they are registered in the Stock Market of the country where their seat is registered.

3.3 Article 8 of L.2741/1999 (Hellenic Govern Gazette 199A'/28.09.1999) “Unified body for the Examination of Food, other regulations regarding jurisdiction issues for the Ministry for Development and other clauses”, as amended by L. 3060/2002 (Hellenic Govern Gazette 242 A'/24.12.2002) “Establishment of an Inspection and Audit Body for Detention Branches and other clauses”, L. 3310/2005 (Hellenic Govern Gazette 30 A'/14.02.2005) “Steps for ensuring transparency and avoiding violations during the signing of public contracts”, as amended by L. 3414/2005 (Hellenic Govern Gazette 279 A'/10.11.2005)”, the Ministerial Decision 1108437/2565/DOS (Hellenic Govern Gazette 1590 B'/16.11.2005) regarding the countries where off-shore companies operate, Joint Ministerial Decision 24014/2005 (Hellenic Govern Gazette 1637 B'/25.11.2005), L.3614/2007 (Hellenic Govern Gazette 267 A'/03.12.2007) “Management, control and application of development interventions for the programme period 2007-2013”, article 25 “Acceleration of the materialization of co-financed acts”.

3.4 Law 4013/2011, as amended by Law 4412/2016 Art. 375 par. 7 (Government Gazette 147/A/08.08.2016), in conjunction with Ministerial Decision No. 5143/2014 (Government Gazette 3335/B/11.12.2014), regarding the mandatory contribution of the Contract Price to the Hellenic Single Public Procurement Authority.

- 3.5 Article 350 par. 3 of Greek Law 4412/2016 in conjunction with Common Ministerial Decision no 1191/2017 (Government Gazette 969 B' /22.03.2017) as applicable, regarding the mandatory contribution in favour of Remedies Review Authority.
- 3.6 Law N. 4129/2013 regarding the auditing of contracts by the Hellenic Court of Audit, as per Article 35.
- 3.7 Any other supplementary clauses, regulations, interpretive circulars or other in connection or authorised by the above mentioned, even if not stated herewith.

#### **4. SCOPE OF SUPPLY**

According to Article 68 paragraph 2γ of the Law 4001/2011 for the operation of the electricity and natural gas energy markets, for hydrocarbons’ exploration, production and transmission networks and other adjustments, the BUYER bears full responsibility for the balancing of the National Natural Gas Transmission System (NNGTS), according to the provisions of the Network Code and the Commission Regulation (EU) No 312/2014 of 26 March 2014. Towards the fulfillment of this obligation, the BUYER, following a transparent tendering procedure, which is in accordance with the market rules, enters into contracts with Natural Gas Traders, for the Supply of the Natural Gas Quantities required for performing Balancing Actions of the Hellenic Natural Gas Transmission System. These contracts are signed upon the approval, of the relevant Annual Planning for Balancing Services, by the Hellenic Regulatory Authority for Energy.

Following the provisions of Article 46 of the Network Code, the BUYER submitted to the Hellenic Regulatory Authority for Energy the Annual Planning for Balancing Services for the Year 2019, on 30.04.2018, and an estimation regarding LNG Quantities to be used for performing Balancing Actions through the use of Balancing Services, on a Monthly basis during the Year 2019.

The said LNG Quantities are as follows:

<b>Month</b>	<b>LNG Quantity for NNGTS Balancing (kWh)</b>
January 2019	67,762,094
February 2019	14,833,795
March 2019	25,816,150
April 2019	16,400,771
May 2019	9,253,354
June 2019	25,263,210
July 2019	19,590,768
August 2019	16,074,072
September 2019	69,777,288
October 2019	13,091,096
November 2019	43,849,843
December 2019	110,913,717
<b>Total</b>	<b>432,626,157</b>

Note: The above table is indicative and the LNG Quantities that will be actually used for balancing the demand / supply in the Hellenic NGTS may significantly differ from the ones listed above.

The same LNG Quantities are estimated to be used for performing Balancing Actions through the use of Balancing Services during the Year 2020, reaching the total amount of **865,252,314 kWh** for the PERIOD OF SUPPLY.

Additionally, the BUYER within the framework of Article 75, of the Network Code, has proceeded with the booking of a storage space in Revythoussa LNG terminal tanks, equal to 16,759.86 m<sup>3</sup> (approx. 113,800,000 kWh). This storage space will be used by the BUYER in order to store LNG Quantities necessary for performing Balancing Actions through the use of Balancing Services during the Years 2019 and 2020.

## **5. FRAMEWORK AGREEMENT & SUPPLY PROCEDURE**

- 5.1 SUPPLIER (-s) shall enter into a FRAMEWORK AGREEMENT with the BUYER, according to Annex IV of present inquiry “DRAFT OF FRAMEWORK AGREEMENT”. The rights and obligations of the contracting parties shall be clearly defined in the FRAMEWORK AGREEMENT.
- 5.2 During the Supply Period, SUPPLIER(s) shall be requested to submit an Offer to the BUYER for the Supply of Balancing Gas Quantity ranging, indicatively, between 10,000,000 kWh and 113,800,000 kWh every time, upon BUYER’s Request for Supply. Each Request for Supply shall be issued not later than five (5) Days prior to the Requested Delivery Day. However, in case BUYER issues a Request for Supply later than five (5) Days prior to the Requested Delivery Day, as specified in the Request for Supply, the SUPPLIER(s) shall exercise his (their) best efforts in order to make the relevant Balancing Gas Quantity available to the BUYER in the Delivery Day requested.
- 5.3 Not later than the time and in the way specified in the Request for Supply, the SUPPLIER(s), shall either fill – in appropriately (according to the restrictions set therein), by defining as minimum, the value of coefficient K, the LNG Quantity and the Delivery Day, and submit to the BUYER the said Request for Supply, or declare that he (they) is (are) not going to submit an Offer. In case a SUPPLIER submits an offer after expiration of the deadline set to that purpose in the Request for Supply, said Offer shall not be evaluated.
- 5.4 The Offer Price shall be calculated according to the following formula:

$$OP = BGUP \times Q$$

The Offer Price (OP) reflects an estimation on SUPPLIER’s reimbursement for the purchase and delivery of the requested Balancing Gas Quantity, within the framework of the FRAMEWORK AGREEMENT and the respective Request for Supply, and is calculated as the product of the Balancing Gas Unit Price (BGUP) expressed in €/kWh, by the Balancing Gas Quantity (Q), expressed in kWh to be delivered to the BUYER by the SELLER, after the issuing of the above Request for Supply.

The Balancing Gas Unit Price (expressed in €/kWh) shall be calculated according to the following formula:

$$BGUP = RP + K$$



where RP (Reference Price) for the Month M, is the European Gas Spot Index price for TTF at the first day of the Month M as stated in the web site of Powernext, a regulated market that manages the natural gas activities of the European Energy Exchange (EEX) Group under the PEGAS brand throughout Europe, in the following path <https://www.powernext.com/spot-market-data> multiplied by 0.001.

Note 1: the BGUP shall be calculated with an accuracy of eight decimal digits.

- 5.5 The evaluation of SUPPLIER (-s) Offer (-s) shall be completed by the BUYER within two (2) Days following the Offers’ submission deadline, mentioned above.

The value of coefficient K must not exceed the value of  $K_{max}$  as defined in SUPPLIER’s relevant Application Letter (see Annex I). In case of non-compliance the BUYER has the right to reject SUPPLIER’s Offer.

The Supply of Balancing Gas will be awarded each time to the successful SUPPLIER, whose offer is the lowest price, i.e. has offered the lowest coefficient K (€/kWh).

In case two or more SUPPLIERS have offered the lowest coefficient K, then the Supply of Balancing Gas will be awarded to the successful SUPPLIER, who has offered the closest Delivery Day, i.e. has offered the closest to the Requested Delivery Day, Delivery Day.

In case two or more SUPPLIERS have offered the lowest coefficient K and the same Delivery Day then the Supply of Balancing Gas will be awarded to the successful SUPPLIER who has offered the closest LNG Quantity ( $m^3$ ), i.e. the closest to the Requested LNG Quantity ( $m^3$ ), LNG Quantity ( $m^3$ ).

In case of more than one successful SUPPLIERS, the Supply of Balancing Gas will be proportionally awarded to each one of them.

- 5.6 The delivery/acceptance of the Balancing Gas Quantity shall follow the procedures specified in the Network Code, the Regulation of Measurements and the Regulation for the Certification of LNG Vessels, in force.

Upon the conclusion of the FRAMEWORK AGREEMENT between the SUPPLIERS and the BUYER, the latter will submit a copy to the Hellenic Regulatory Authority for Energy (RAE).

## **6. COMMUNICATION - APPLICABLE LANGUAGE**

- 6.1 Unless otherwise mentioned in the Inquiry Documents, the Bidders may contact DESFA concerning matters that regard the present Tender exclusively via the tenderONE e-tendering platform ([www.marketsite.gr](http://www.marketsite.gr)). The time that each Bidder contacts DESFA via the SYSTEM will be automatically confirmed by the SYSTEM through electronic time stamping. Any communication carried out by any means other than the above, shall not be taken into consideration.
- 6.2 The Inquiry Documents may be accessed by any interested party through the tenderONE e-tendering platform, by selecting the folder of the in subject Inquiry.



Access to the SYSTEM shall be provided by granting the relevant credentials (username, company code and password). Credentials shall be granted after the registration in the SYSTEM (unless the participant has already passwords for the e-tendering application).

Registration in the SYSTEM is free of charge and carried out by filling in the required information at the URL [www.cosmo-one.gr/register](http://www.cosmo-one.gr/register) and accepting the terms of use of the SYSTEM. After submitting a registration request, the party concerned shall receive the relevant passwords. The user must change the temporary personal password provided by the SYSTEM with a different password of his choice. If a user loses the password, he shall contact cosmoONE via the registration SYSTEM for having his password replaced.

- 6.3 The Application including all related documentation and all Tender related communication shall be submitted and conducted in Greek or English language.

Documents submitted or originally issued in a language other than Greek or English shall be accompanied by an official translation in Greek or English language issued by a lawyer or a competent authority.

## **7. APPLICATION CONTENTS**

- 7.1 The Application must be submitted electronically, via the tenderONE e-tendering platform provided by cosmoONE ([www.marketsite.gr](http://www.marketsite.gr)).
- 7.2 The Application shall be digitally signed by the person duly authorized to act on behalf of the Bidder. That person must have an approved advanced electronic signature in accordance with signature in accordance with eIDAS Regulation (910/2014 EU), granted by a certified digital signature provider.
- 7.3 The electronic Bid must contain two (2) separate envelopes (A, B) as follows:

**I ENVELOPE A - Authorisation Documents and Technical Offer (Contents Unpriced)**

This envelope shall include all documents specified in Art. 14 herein. These documents shall be submitted in a Portable Document Format (PDF) file type.

**II ENVELOPE B - Financial Offer (Contents Priced)**

This envelope shall include all documents specified in Art. 15 herein. These documents shall be submitted in a Portable Document Format (PDF) file type.

**NOTES:**

- a. Each document contained in Envelopes (A & B) as above shall be submitted by the Bidder electronically in a Portable Document Format (PDF) file type and, if drawn up by the Bidder, they shall be digitally signed with an approved advanced electronic signature, in accordance with eIDAS Regulation (910/2014 EU), granted by a certified digital signature provider.
- b. In addition to the above, within three (3) working days from electronic submission of the above Envelopes, the Bidder shall submit, in printed

form and in a sealed envelope, the document that is specified in Article 14.12 herein.

- c. BUYER may, at any time during the tender procedure, request from the Bidders to submit within a reasonable deadline in printed form, original or certified copies of all or some of the documents and data that they have submitted electronically.

- 7.4 Each Bidder shall prepare its Application in strict accordance with the provisions of these INSTRUCTIONS TO BIDDERS, its attachments and Other Inquiry Documents.

## **8. APPLICATION SUBMISSION**

- 8.1 Applications shall be submitted via the tenderONE e-tendering platform ([www.marketsite.gr](http://www.marketsite.gr)) not later than **12:00** hrs. of ...../...../2018, which is the final deadline (**Application due Date**) for the receipt of Applications.

An electronic Application submission receipt shall be issued via the above electronic platform and sent to the Bidder by e-mail.

Application submission time shall be automatically confirmed by the SYSTEM through electronic time stamping.

- 8.2 Overdue Applications (Applications submitted later than the specified time on the specified date above) shall not be accepted by the SYSTEM.

## **9. VALIDITY OF APPLICATIONS**

The Applications shall be valid (and therefore binding on the Bidders) for six (6) months as from the Application due Date.

Applications with validity period less than specified in the Inquiry Documents shall be rejected.

Said period of validity might be extended following an electronic, via the SYSTEM request by BUYER (prior to the expiration date). In case a Bidder fails to comply with such a request, then said Bidder shall be considered as having waived all its rights in relation to the Inquiry and its Application, as well as in relation to the relevant expenses incurred by said Bidder, etc.

## **10. GUARANTEES**

- 10.1 In order to participate in this Tender, each Bidder must deposit, at the time of Application submission, to be included in envelope A, **a Letter of Guarantee equal to six hundred eighteen thousand EURO (€ 618,000.00), valid for at least two (2) months beyond the minimum validity period of the Application specified in Article 9 here above.**
- 10.2 The Participation Guarantee Letter shall be addressed to the HELLENIC GAS TRANSMISSION SYSTEM OPERATOR (DESFA) S.A. and shall be in full accordance with the attached Annex II Form. Any deviation or omission might lead to the rejection of the Application.
- 10.3 The Participation Guarantee Letter of the Bidder (-s) will be returned after the

receipt of a Performance Guarantee Letter upon signing of the FRAMEWORK AGREEMENT.

- 10.4 Prior to the signing of the FRAMEWORK AGREEMENT, the SUPPLIER(-s) must submit **the Framework Agreement’s Performance Guarantee Letter** (Annex II, Form of Framework Agreement Performance Bond) for the amount of **one hundred fifty four thousand and five hundred EURO (€154,500.00), representing (0.5%) of the maximum estimated value (net of VAT) of the SUPPLY** for the obligations assumed by SUPPLIER pursuant to the FRAMEWORK AGREEMENT **valid for the entire duration of the FRAMEWORK AGREEMENT and until three months after the final day of the SUPPLY PERIOD, namely 01.04.2021.**
- 10.5 In case the aforementioned (Para. 10.3) Bidder does not present themselves to sign the FRAMEWORK AGREEMENT and/or fails to sign it without reservation, as stated in Article 17 here below, and/or fails to submit the required Performance Guarantee Letter, then the relevant Participation Guarantee shall be completely forfeited in favour of the BUYER as a penalty expressly stipulated hereby, irrespectively of whether the BUYER has sustained or not any damages or loss; the same shall apply for any Bidder, in case any such Bidder withdraws and/or modifies (by its own initiative) its Application, after the Application due Date and prior to the expiration of the period of validity (see Article 9 hereinabove) of said Application.
- 10.6 In case BUYER requests electronically, via the SYSTEM, the extension of the validity of Applications as per Article 9 here above, the Bidders must also extend the validity of the Participation Guarantee Letter. If a Bidder refuses or fails to comply with such request, then said Bidder shall be considered as having waived all its rights in connection with the Inquiry.
- 10.7 All Letters of Guarantee (Paragraphs 10.1 and 10.4 above) must be issued by a first class Bank, legally operating in Greece or in any other Member-State of the E.U. or the European Economic Area (E.E.A) or Countries having a relevant Association Agreement with the E.U, allowing the participation in Public Sector’s Tenders. The Letters of Guarantee will be issued in Greek or in English language. Alternatively, Letters of Guarantee issued in a language other than the Greek or English, shall be accompanied by an official translation in Greek or English language, issued by a competent authority in the Country where the Bidder is established, or in Greek by the Greek Ministry of Foreign Affairs, or by the Greek Consulate of the Country the above Letter of Guarantee has been issued.

## **11. INQUIRY DOCUMENTS AND ORDER OF PRECEDENCE**

The following documents, hereinafter collectively referred to as Inquiry Documents, shall form an integral part of the Inquiry. In the event of any conflict (as far as this Inquiry is concerned) identified in the conditions set forth in the Inquiry Documents, the following order of precedence shall prevail, from the higher to the lower:

### **INSTRUCTIONS TO BIDDERS**

ANNEX I: FORM OF APPLICATION LETTER

ANNEX II: FORM OF PARTICIPATION GUARANTEE & FORM OF PERFORMANCE BOND

ANNEX III: FORM OF GDPR STATEMENT

ANNEX IV: DRAFT OF FRAMEWORK AGREEMENT

## **12. GROUPS OF ECONOMIC OPERATORS**

The legal formation of the GROUP is not a prerequisite for taking part in the present Tender.

The Application submitted by a GROUP, shall comply with the following requirements:

- 12.1 The Application shall be digitally signed either a) by all members of the GROUP, or b) by the Leader of the GROUP or alternatively by the GROUP’s common Legal Representative with a Declaration of the other members, so as to be legally binding on each member.
- 12.2 A Declaration that has been a GROUP or which is intended to be entered into digitally signed by all members of a GROUP, shall accompany the Application.

The following Declaration and information shall be given in a statement digitally signed by all the GROUP partners which shall be included in the Application, specifying and stating the following:

- That the members of the GROUP shall be jointly, indivisibly and severally liable for execution of the FRAMEWORK AGREEMENT and that, in the event that any one of the members ceases to be a member of the GROUP and goes into liquidation, then the surviving member(s) shall have full obligation to execute the FRAMEWORK AGREEMENT and shall be empowered to use all resources furnished by any party in the GROUP.
- The interest of each of the members of the GROUP and the description of each member’s undertaking.
- The name of the GROUP partner, who is nominated to act as Leader of the GROUP and who, in such capacity, is authorised to incur liabilities and enter into a Contractual relationship with Third Parties, to receive instructions and act on instructions from BUYER and to effect and receive payments on behalf of the GROUP after Request of Supply award and for representation issues.
- The GROUP’s common Legal Representative and the corresponding proxy.

## **13. APPLICATION OPENING PROCEDURE**

- 13.1 Upon expiry of the Application submission time limit, the Inquiry Committee appointed by BUYER will open the Bids electronically on **12:30 hrs** of the **Application due Date**, using unique codes to be provided by the SYSTEM.

Representatives of Bidders participating in the Application may attend the opening of Envelopes (A, B), if they so wish, at the following address:

HELLENIC GAS TRANSMISSION SYSTEM OPERATOR (DESFA) S.A.  
357-359 Mesogeion Ave.,  
GR 152 31- HALANDRI, ATHENS  
GREECE

Evaluation shall follow the procedure stated here below in two (2) separate

and distinct stages:

- Evaluation of the contents of Envelopes A
- Evaluation of the contents of Envelopes B

- 13.2 The Inquiry Committee shall open Envelopes A electronically, via the SYSTEM, and shall record the contents.

The Inquiry Committee reserves the right to request, via the SYSTEM from the Bidders to clarify the documents submitted or to submit supplementary or supporting documentation in relation to Envelope A, according to Article 310 of Law 4412/2016. Bidders shall reply electronically, via the SYSTEM, not later than seven (7) days from receipt of said request. Any clarification or supplementary document/information not requested by BUYER shall not be taken into consideration.

The content of Envelopes A will then be evaluated by the Inquiry Committee with reference to their compliance with the Inquiry Documents.

- 13.3 Following the completion and announcement of the evaluation of Envelopes A, electronically, via the SYSTEM, the Inquiry Committee shall open Envelope B only for the Bids which have been so far accepted, using unique codes to be provided by the SYSTEM. The Inquiry Committee will inform, via the SYSTEM, the relevant Bidders as to the place and time of opening of Envelopes B.

The Inquiry Committee reserves the right to request the Bidders, via the SYSTEM, the submission of any clarification in relation to Envelope B, according to Article 310 of Law 4412/2016. Bidders shall reply in writing not later than seven (7) days from receipt of said request.

- 13.4 The SYSTEM shall not allow opening of unopened electronic Envelopes submitted by Bidders whose Bids have not been accepted. The Participation Guarantee Letter will be returned against receipt to the Bidders whose Bids have not been accepted. No other documents in paper form, if any, of Bids that have not been accepted shall be returned.

- 13.5 Following the opening and evaluation of each stage of the Bid evaluation (i.e. Envelope A and Envelope B), the Inquiry Committee records its findings. The Inquiry Committee concludes its work by recording its evaluation of the Financial Offers and by drafting its proposal to BUYER's appropriate body for the successful Bidder(s) of the Tender.

## **14. CONTENTS OF ENVELOPE A**

Envelope A shall contain the following in sequential order as follows.

### **A. LEGALIZATION DOCUMENTS**

#### **14.1.1 Participation Guarantee Letter**

A duly completed Participation Guarantee Letter according to Article 10 and as per form of Annex II attached herein.

#### **14.1.2 Statement**

The Bidder, or, in case of a GROUP, each of its members, shall submit a statement, digitally signed, stating that:

- The Bidder has studied all the terms of the Inquiry and that he fully accepts all terms contained in the Inquiry Documents as well as the terms of use of the SYSTEM and the electronic procedure of the Tender, with no reservations whatsoever, and
- All submitted data and information contained in their Application are true and genuine.

#### 14.1.3 Contacting information

The Bidder’s representative Name and Fax Number.

#### 14.2.1 The Bidder, or, in case of a GROUP, all members of the GROUP, shall submit:

##### (i) Legalization

a. For Bidders operating under Greek Law, certificate(-s) by the registry of Department of Commerce (GEMI) proving the lawful operation and registration, the current composition of the governing legal body and the current legal representatives, or the corresponding publications in the Greek Government Gazette or other appropriate certificates by a competent authority.

b. For Bidders operating under foreign Law, certificate(-s) by the competent Authority, as provided by the law of Bidder’s country of establishment, proving the lawful operation and registration, the current composition of the governing legal body and the current legal representatives, or other appropriate certificates by a competent authority.

(ii) A digitally signed copy of the Minutes of Meeting of the Board of Directors, or other competent decision-taking body or duly authorized person of the Bidder

A. Regarding their decision to participate in the Bid according to the terms of this Inquiry.

B. Appointing a Legal Representative authorized to represent the Bidder until the signing date of FRAMEWORK AGREEMENT.

C. Declaring the acceptance of the Bidder’s percent participation in the GROUP and naming the Leader of the GROUP that shall be formed in the case of FRAMEWORK AGREEMENT award (if applicable).

D. Appointing the Common Legal Representative of the GROUP (if applicable)

#### 14.2.2 A Declaration digitally signed by the aforementioned Legal Representative of the Bidder, accepting fully said appointment.

#### 14.2.3 GROUPS of Economic Operators:

In case Bidder is a GROUP, submission of additional documents, as per provisions of Article 12 here above.

#### 14.3 Documents proving that the Bidder, or, in case of a GROUP, each of its members, is registered in a commercial/professional register in compliance with the Law of the country where it is established and exercises the activity of supply of natural gas in accordance with the legislation of the country where



it is established. Especially for E.U. countries, professional registers are stated in Article 58 & Appendix XI of the European Directive 2014/24/EU.

Note: Where the country concerned does not issue such documents or certificates as required above, these may be replaced by a declaration made by the person concerned, before a judicial or administrative authority, a notary, or a competent professional or trade body, in the country where the Bidder is established.

- 14.4 Before the signing of the FRAMEWORK AGREEMENT, the successful Bidders, through their Legal Representative, must submit to BUYER a solemn declaration digitally signed pursuant to article 8 of the Greek Law 1599/1986, currently in force, that no conviction decision, by the meaning of article 3 of the Greek Law 3310/05, as it was replaced by the article 3 of the Greek Law 3414/2005, has been issued against the Bidder.

If, before the signing of the FRAMEWORK AGREEMENT, the Court has entered a final conviction decision against the Bidder, acquiring the authority of res judicata, according to article 3, paragraph 4 of the Greek Law 3310/2005, as it was replaced by article 3 of the Greek Law 3414/2005, the Bidder abstains from the signature of the FRAMEWORK AGREEMENT and without any liable delay must submit to the BUYER and to the Transparency Control Department of the National Council for Radio and Television (NCRTV) a validated copy of the conviction decision, as well as a validated copy of the criminal record of the Legal Representative(s), in which the above conviction is referred. Thereafter, the Bidder requests to the above Department the issue of a certificate regarding the concurrence of incompatibility and/ or exclusion criteria, according to article 5, paragraph 2 of the Greek Law 3310/2005, as it was renumbered and modified by the paragraphs 3, 4 and 5 of article 5 of the Greek Law 3414/2005.

In case of the previous paragraph, the BUYER communicates the specific conviction decision to the National Council for Radio and Television (NCRTV) with its decision for exclusion of said Bidder, in order to check, at the latest prior to the signing of the FRAMEWORK AGREEMENT, the exclusion of said Bidder according to article 5, paragraph 2 of the Greek Law 3310/2005, as it was renumbered and modified by the paragraphs 3, 4 and 5 of article 5 of the Greek Law 3414/2005.

If this final conviction decision for the execution of the misdeed of active corruption is issued after the FRAMEWORK AGREEMENT signing, the Bidder submits to the BUYER and to the Transparency Control Department, without any liable delay, a solemn declaration with a copy of this decision. In this case, the BUYER must submit to the Transparency Control Department the decision regarding the forfeiture of the BUYER due to the aforementioned reason, in order to check it according to paragraph 5, article 5 of the Greek Law 3310/2005, as it was renumbered and modified by the paragraphs 3 and 8 respectively, of the article 5 of the Greek Law 3414/2005.

Therefore:

- 14.4.1 Bidders, Greek and foreign, must submit a declaration digitally signed that they are not offshore companies according to the provisions of case a. par.4 of article 4 of the Greek Law 3310/2005.
- 14.4.2 As per Presidential Decree 82/1996 and the Law 3310/2005 as amended by Law 3414/2005 stipulations, Bidders that are Greek

Incorporated/Public Limited companies participating in the Application shall have to submit the following:

- A Certificate issued by the competent Authority stating that the company's shares are personal.
- A detailed list of the company's shareholders and the number of shares each shareholder (individual, Limited or Personal company) has in his possession as per official entries in the Company's Shares Book. This list should be no more than thirty (30) days old before the date of Application submission. In the case that among Bidder's shareholders, which hold at least one percent (1%) of the total number of company shares, are other Incorporated/Public Limited companies, these companies should have in turn their list of shareholders (individuals, Limited or Personal companies), and so on, until the shareholders of all companies involved can be defined down to the level of individuals, Limited or Personal companies.

14.4.3 Foreign Bidders participating in the Inquiry severally or as members of a GROUP, in case provision is made by the Law of the country of registration, shall have to submit the following:

- A Certificate issued the competent authority pursuant to the laws of the country of registration, from which it can be established that the company shares issued according to the company's statutes in effect are personal; In case the company's shares were unregistered according to the company's statutes, the relevant procedure for the amendment to company's statutes provisioning all company shares to be rendered personal, must have been completed and approved by the Supervising competent authority, by the time of Application and no later than the Application due Date.
- A detailed list of the company's shareholders and the number of shares each shareholder (individual, Limited or Personal company) has in his possession as per official entries in the Company's Shares Book pursuant to the laws of the country of registration office. This list should be no more than thirty (30) days old before the date of Application submission. In the case that among Bidder's shareholders, which hold at least one percent (1%) of the total number of company shares, are other Incorporated/Public Limited companies, these companies should have in turn their list of shareholders, (individuals, Limited or Personal companies), and so on, until the shareholders of all companies involved can be defined down to the level of individuals, Limited or Personal companies.
- Any other pertinent documentation, no more than thirty (30) days old before the date of Application submission, from which the list of the company's registered shareholders can derive.

In case there is no obligation deriving from the legislation of the country of registration for the participating in the Inquiry foreign companies, to render their shares personal, then they have to submit the following documents:

- A certificate issued by the competent authority of the country of registration, establishing that no such legal obligation exists; otherwise to submit a statement of such context.

- A valid and updated list of its registered shareholders, holding at least one percent (1%) either of the total number of company shares or of the company’s voting rights.
- In case of no such updated list of registered shareholders, the foreign company must submit a list of its shareholders holding at least one percent (1%) either of the total number of company shares or of the company’s voting rights, produced according to the most recent General Assembly, on condition that these shareholders are known to the company. Otherwise, the company has to provide justification for the reasons why these shareholders are not known, subject to the approval and assessment of the BUYER.

14.4.4 Greek or foreign Bidders participating in the Inquiry severally or as members of a GROUP, which are entered in the Stock market of a European Union (E.U.), or of Economic Collaboration and Growth Institution country, in order to be excluded from the obligation of definition of the shareholders down to the level of individuals, limited or personal companies, shall have to submit the following documents:

- A certification of the Stock Market Authority, certifying that the Company is entered in the Stock Market.
- An informative bulletin of the Company’s shareholders.

All the above documents must be duly certified by the competent authority of the country of registration, and shall be accompanied by official translation in the Greek language.

14.5 Published or certified copies of Bidder’s, or in case of a GROUP of each of its members, Statements of Accounts for the last three (3) fiscal years (2015, 2016 and 2017), showing Annual Turnover.

**Subject to rejection of the Application**, the annual turnover of the Bidder or, in case of GROUP at least the Leader of the GROUP having a minimum interest of 50% in the GROUP, for the last three (3) fiscal years (2015, 2016 and 2017) must be greater than 61.8 million €.

14.6 Bank certificates attesting Bidder’s creditworthiness for financing of at least ten million Euro (€ 10,000,000) to the following context:

*«Upon request of..... (Bidder’s corporate name), we hereby confirm that ..... (Bidder’s corporate name) is a customer of this bank of good standing and to this date has sufficient credit for the consistent performance of their contractual and financial obligations.*

*Our Bank has approved, under the terms and conditions concluded and notified to the Company, line of credit (excluding letters of guarantee) amounting to €.....*

*Regarding DESFA’s Tender no. 810/18/DDP, our Bank is willing to consider any request by the Company for funding, if eligible according to the bank’s criteria, the applicable monetary and credit rules, the financial standing and prospects of the Company at the time of the submission of the Application».*

14.7 Certificates issued by competent Authorities in the Country of registration, proving that the Bidder:

- a. Has fulfilled its obligations, concerning the payments of Social Security contributions according to the Legislation of the Country where it is established, or according to Greek Legislation;
- b. Has fulfilled its obligations related to payment of taxes, according to the Legislation of the Country where it is established or according to Greek Legislation, in the event that it has previously developed activities in Greece.

14.8.1 The Bidder, or, in case of a GROUP, each of its members', shall submit an extract from the judicial record or, failing that, of an equivalent document issued by a competent judicial or administrative authority in the country of the economic operators' establishment, regarding the member(-s) of the administrative, management or supervisory body of that economic operator or person(-s) with powers of representation, decision or control therein, establishing that they have not been the subject of a conviction by final judgment for one or more of the reasons listed below:

(a) participation in a criminal organization, as defined in Article 2 of Council Framework Decision 2008/841/JHA (32);

(b) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (33) and Article 2(1) of Council Framework Decision 2003/568/JHA (34) as well as corruption as defined in the national law of the contracting authority or the economic operator;

(c) fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests (35);

(d) terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA (36) respectively, or inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision;

(e) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council (37);

(f) child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council (38).

14.8.2 The Bidder, or, in case of a GROUP, each of its members, shall submit extracts from Judicial records, or failing this, equivalent documents issued by competent judicial or administrative authorities in the country of origin and/or the country where the Bidder (or, in case of a GROUP, each of its members) is registered, proving that:

A. The Bidder is not bankrupt, under liquidation, bankruptcy, obligatory administration or winding up, compromise, or any other similar situation resulting from a similar procedure, as provided by National Legislation;

B. The Bidder is not the subject of proceedings for a declaration of bankruptcy, obligatory administration or winding up, compromise or any other similar situation or resulting from any other similar procedure as provided by National Legislation.

C. The Bidder has not been convicted for anything related to its professional integrity and behaviour.

D. The Bidder has not committed a serious professional misconduct, which can be verified by any means by BUYER.

Note to 14.8.1 and 14.8.2: Where the country concerned does not issue such documents or certificates as required above, these may be replaced by a **declaration**, digitally signed by the Bidder, before a Judicial or Administrative authority, notary or the appropriate professional organisation of the country where the Bidder is established, stating also, within the same declaration, that the country concerned does not issue such documents or certificates as required above.

## **B. EXPERIENCE DOCUMENTATION**

### 14.9 Bidder’s Profile:

Documents indicating the profile, structure, organization and infrastructure of the Bidder, or, in the case of a GROUP, of each of its members, with regard to proposed scope of supply.

### 14.10 Bidder’s Experience:

The Bidder shall submit:

#### 14.10.1 References in the field of the proposed scope of supply for each one of the last eight (8) years, i.e.:

a. List of Bidder’s, or, in the case of a GROUP, of each of its members, LNG Supply Contracts that are under execution or have been executed successfully in the last eight (8) years, stating analytically:

- Project title
- Owner/Client with a contact name
- Type of Contract, Contract number, Contract award date
- Technical data
- Brief description of Contract’s scope
- Initial and final Contract Price
- Planned and actual delivery date

In case of Contracts under execution, the unexecuted part for each Contract (in terms of volume/cost) at the Application submission date has to be stated as well.

In case the Application was a sub-Contractor, a written declaration from both Client and main Contractor of the Project, with all above information, is required.

And

#### 14.10.2 License for Supply of Natural Gas issued by the Hellenic Regulatory Authority for Energy before the Application Due Date.

**Subject to rejection of the Application,** Bidder must have a License for Supply of Natural Gas issued by the Hellenic Regulatory Authority for Energy. In case of a GROUP, the minimum requirement, as stated in the above paragraph, must be satisfied at least by the Leader having a minimum interest of fifty percent (50%) in the GROUP.

**C. ADDITIONAL DOCUMENTATION IN CASE THAT THE BIDDER RELIES ON PARTICULAR RESOURCES OF OTHER ENTITIES**

14.11 In case Bidder relies on and uses the economic and financial or/and technical or/and professional capacity of Other Entities, as per Article 79 of the Directive, these Entities must comply with requirements stated in article 2 hereinabove and the documents mentioned below should be included in the sealed Envelope for each Other Entity :

14.11.1 The duly digitally signed Declaration as per article 14 of present Inquiry and the duly certified documents, where the term “Bidder” is substituted by the term “Other Entity”.

Any case of a GROUP of Other Entities is not valid.

In case that above mentioned documents are not submitted, the application of use of particular resources of Other Entities shall not be taken into consideration.

14.11.2 A digitally signed copy of the Minutes of Meeting of the Board of Directors, or other competent decision-taking body or duly authorized person of the Other Entity, regarding the approval of the availability to the Bidder, for the whole duration of the execution of the FRAMEWORK AGREEMENT, of the particular economic and financial or/and technical or/and professional capacity. The relevant decision should be detailed and should specify the particular resources to be available for the SUPPLY, in a manner that the BUYER can proceed with evaluation and judge the importance of those resources during the application phase and can control the realization of said commitment during the execution of the FRAMEWORK AGREEMENT.

14.11.3 Original copy of binding agreement between the Bidder and such Other Entity proving the commitment for provision of resources.

In case that the requirements listed above are not fulfilled, such application of the Other Entity shall not be taken into consideration by the BUYER.

Above mentioned relationship shall be valid for the whole duration of the FRAMEWORK AGREEMENT. In case that during the FRAMEWORK AGREEMENT’s performance the relationship between the Bidder and the Other Entity is not valid, BUYER has the right to apply the contractual provision for Contractor’s forfeiture.

The declarations and the documentation both of the Bidder and of the Other Entity related to the use of particular resources shall be part of the FRAMEWORK AGREEMENT Documents.

Any individual Other Entity can make its capacity and services available, to only one Bidder, in accordance with the provisions mentioned above.

**14.12 IMPORTANT NOTE**

**Subject to rejection:** The Bidder must submit to BUYER, within three (3) working days from electronic submission of the above Envelope A documents, the original Participation Guarantee Letter in paper format, in a sealed envelope.

**15. CONTENTS OF ENVELOPE B**

15.1 Envelope B must contain the following:



### **APPLICATION LETTER**

The Bidder shall clearly define the factor  $K_{max}$ , declaring that this is not subject to any escalation and will remain unchanged during the entire Supply Period.

- 15.2 The Bidder shall digitally sign the contents of Envelope B as provided in the Inquiry Documents.
- 15.3 Omission by the Legal Representative of the Bidder to place a digital signature in the contents of Envelope B, as provided for the Inquiry documents, shall be a reason for rejection of the Application.

### **16. EVALUATION PROCEDURE**

Evaluation of the Applications shall be performed as follows:

- 16.1 Only Bidders which have submitted an Envelope A according to Article 14 will be accepted for further evaluation.
- 16.2 Application shall be rejected if:
- It appears from the Envelope A that the Bidder does not have the financial capacity or the License for Supply of Natural Gas issued by the Hellenic Regulatory Authority for Energy to execute the FRAMEWORK AGREEMENT.
  - The Bidder has committed any serious professional misdeed which can be verified by any means by the BUYER.
  - The Bidder has provided, at any stage of the Inquiry, false information.

The rejected Applications will not proceed to the Evaluation step 13.3.

- 16.3 For the Applications that have been so far accepted, the opening of Envelope B, will follow electronically, via the SYSTEM and the  $K_{max}$  shall be announced.

During this stage BUYER may, at its discretion, ask electronically, via the SYSTEM any Bidder(s) to justify his (their) offered price(s). BUYER shall require Bidder(s) to explain offered price(s) or cost(s) that appear to be abnormally low. Bidder shall reply electronically, via the SYSTEM not later than ten (10) days from receipt of said request. BUYER reserves the right to reject any Bidder's offer in case BUYER judges that Bidder's reply does not explain satisfactorily the low level of offered price(s) or cost(s).

- 16.4 The evaluation of the Applications will be concluded with the (written) approval of its results by BUYER and then, the results shall be announced electronically, via the SYSTEM.

### **17. AWARD – FRAMEWORK AGREEMENT SIGNING**

- 17.1 The successful Bidders will receive electronically via the SYSTEM a Letter of Intent.

All successful Bidders, upon receipt of the Letter of Intent, but not later than

two (2) working days as from its receipt, shall notify BUYER electronically, via the SYSTEM of its acceptance without any reservation.

Following said acceptance, the successful Bidder(s) will receive electronically, via the SYSTEM, a Letter of Award issued by BUYER. The FRAMEWORK AGREEMENT will be signed as soon as the successful Bidder(s) submits electronically, via the SYSTEM to the BUYER the following documents and in any case not later than ten working (10) days from the day of receipt of the Letter of Award by the successful Bidder:

- A. Minutes of the successful Bidder’s (or, in case of a GROUP, from each of its members) Board of Directors, or other competent decision taking body, digitally signed, and stating:
  - (i) Their decision to accept the FRAMEWORK AGREEMENT award; and
  - (ii) The appointment, by a Power of Attorney, of the Legal Representative (-s) who must be authorised to sign the FRAMEWORK AGREEMENT and to act on SUPPLIER’s/SELLER’s behalf during the execution of the FRAMEWORK AGREEMENT.
- B. Declaration digitally signed by said Legal Representative (-s) accepting the aforementioned Power of Attorney without any conditions or reservations.
- C. Performance Guarantee Letter as per provisions of Article 10 (GUARANTEES)
- D. In case of a GROUP, legal documents proving that the GROUP has been formed according to Article 12 stipulations and according to the Law.
- E. The Solemn declaration as per Article 14.4 above digitally signed.
- F. As per Presidential Decree 82/1996 stipulations, Greek Incorporated/Public Limited companies shall have to submit the following:
  - A Certificate issued by the competent Authority stating that the company’s shares are personal.
  - A detailed list of the company’s shareholders and the number of shares each shareholder (individual, Limited or Personal company) has in his possession as per official entries in the Company’s Shares Book. This list should be no more than thirty (30) working days old from the date of Application submission. In the case that among Bidder’s shareholders, which hold at least one percent (1%) of the total number of company shares, are other Incorporated/Public Limited companies, these companies should have in turn their list of shareholders (individuals, Limited or Personal companies), and so on, until the shareholders of all companies involved can be defined down to the level of individuals, Limited or Personal companies.
  - Foreign companies, several or members of a GROUP, in case provision is made by the Law of the country of registration, shall have to submit the following:
    - A Certificate issued by the competent authority pursuant to the laws of the country of registration, from which it can be established that the company shares issued according to the company’s statutes in effect are personal; In case the company’s shares were unregistered according to the company’s

statutes, the relevant procedure for the amendment to company’s statutes provisioning all company shares to be rendered personal, must have been completed and approved by the Supervising competent authority, by the time of Application and no later than the Application due date.

- A detailed list of the company’s shareholders and the number of shares each shareholder (individual, Limited or Personal company) has in his possession as per official entries in the Company’s Shares Book pursuant to the laws of the country of registration office. This list should be no more than thirty (30) working days old from the date of submission to the BUYER. In the case that among Bidder’s shareholders are other Incorporated/Public Limited companies, these companies should have in turn their list of shareholders (individuals, Limited or Personal company), and so on, until the shareholders of all companies involved can be defined down to the level of individuals, Limited or Personal companies.

Any other pertinent documentation, no more than thirty (30) working days old from the date of submission to the BUYER, from which the list of the company’s registered shareholders can derive.

➤ In case there is no obligation deriving from the legislation of the country of registration for the foreign companies, to render their shares personal, then they have to submit the following documents:

- A certificate issued by the competent authority of the country of registration, establishing that no such legal obligation exists; otherwise to submit a statement of such context.

- A valid and updated list of its registered shareholders, holding at least one percent (1%) either of the total number of company shares or of the company’s voting rights.

In case of no such updated list of registered shareholders, the foreign company must submit a list of its shareholders holding at least one percent (1%) either of the total number of company shares or of the company’s voting rights, produced according to the most recent General Assembly, on condition that these shareholders are known to the company. Otherwise, the company has to provide justification for the reasons why these shareholders are not known, subject to the approval and assessment of the BUYER.

➤ In case the companies are entered in the Stock market of a European Union (E.U), or of Economic Collaboration and Growth Institution country, the required documents are as per Article 14.4.4 above

All the above documents must be duly certified by the competent authority of the country of registration, and shall be accompanied by official translation in the Greek language.

All the above documents shall be submitted electronically via the SYSTEM in Portable Document Format (PDF) file format and must also be submitted in printed form, within three (3) working days from their electronic submission. The Performance Guarantee shall specifically be submitted in original form.

Upon electronic submission of the above documents, the SYSTEM shall issue a confirmation of submission thereof, and shall send an informative e-mail to the successful Bidder.

17.2 In case the successful Bidder (-s) fail(-s) to notify BUYER the acceptance of

BUYER’s Letter of Intent within the aforementioned two (2) working days’ time limit or fails to submit the aforementioned documents of paragraph 17.1 above after BUYER’s Letter of Award, BUYER shall have the right to cancel the award of the FRAMEWORK AGREEMENT to said Bidder and to claim for compensation of damages related to the delays due to such failure of said Bidder and provisions of article 10.5 hereinabove shall apply.

- 17.3 In case the successful Bidder is a GROUP, the award will be in the name of all members of the GROUP. Each member of the GROUP will be fully, jointly, indivisibly and severally liable to BUYER and will be represented by a common Representative throughout the validity period of the FRAMEWORK AGREEMENT.

## **18. CONFIDENTIALITY**

Any technical information and data furnished by BUYER with the Inquiry Documents shall remain the property of BUYER and shall be treated confidentially and they shall not be used, disclosed or released to any Third Party for any other purposes, other than for preparing the Bids/Applications.

In case that any Bidder designates information as confidential, reasoning the existence of technical or trade secrecy, in his relative statement submitted in digitally signed Portable Document Format (PDF) format, should expressly refer all relative provisions of legislation or competent authority’s decisions that imposes the confidentiality of said information.

Information concerning offered quantities and prices, financial offer and the contents of technical offer used for the evaluation are not confidential.

The files that the Bidder wishes to designate as confidential as per the above must be submitted separately in Portable Document Format (PDF) or in the form of a distinct compressed file (e.g. a ZIP file) that includes files in Portable Document Format (PDF). Each of these files shall be electronically locked with an electronic key held by the Bidder, which the Bidder shall send via the SYSTEM to the Inquiry Committee, right after the opening of the respective envelope. Confidential documents are not accessible by other Bidders via the SYSTEM.

DESFA processes, namely collects, stores and uses personal data (Personal Data), exclusively for the purposes of the Tender and in order to fulfill its obligations under the law in relation thereto.

Processing is performed in accordance with the applicable legislation, in particular the provisions of the Regulation (EU) 2016/679 on personal data protection (General Regulation) and the Personal Data Protection Policy of the Company. DESFA applies appropriate technical and organizational measures in order to ensure that processing complies with the aforementioned provisions.

DESFA shall retain the Personal Data provided to it, as per the foregoing, for five (5) years after the end of the Contract to be awarded following the Tender. Data Subjects, as the case may be, are entitled to all rights provided for in Articles 12 - 23 of the General Regulation.

DESFA does not transfer, disclose or notify the aforementioned Personal Data to third parties unless for the purposes of the Tender or for fulfilling a legal obligation, without the consent of the Data Subject concerned or as the law provides.

In this context, Participants shall accompany any document thereof containing personal

data (e.g. solemn declaration, resumés, criminal records) **with an explicit statement by the Data Subject, as the case may be, in compliance with Annex III – Form of GDPR Statement** and shall comply with the European and National legislation regarding Personal Data Protection and, in particular, the General Regulation, when processing Personal Data of their employees, officers, servants and associates in the context of participation in this Tender.

## **19. RESERVATIONS AND RIGHTS OF THE BUYER**

19.1. Participation to the selection process constitutes an acceptance by the Bidder that he has complete knowledge of the terms and conditions of the Inquiry Documents and accepts their contents without reservation.

Any omission to submit the Application according to the Inquiry Documents as well as the omission of a signature on any document does not entitle the Bidder to invoke this fact in his (Bidder’s) favour in any way.

The Bidder shall be responsible for and be bound by his Application as submitted.

19.2. The BUYER will have no responsibility or obligation whatsoever to indemnify and/or to compensate Bidder for any expense or loss incurred for the preparation and submission of the Application, in particular, in case the terms and conditions of the Inquiry Documents are changed by BUYER or the Application is not accepted, or the Inquiry is adjourned or annulled or cancelled at any stage and time and for any reason whatsoever. Therefore, participants to the Inquiry which submit an Application, regardless of whether this is finally accepted or not, have no right against the BUYER deriving from the Inquiry or from participating in the Application procedure.

19.3. BUYER and the provider of the e-tendering SYSTEM will have no responsibility or obligation whatsoever to indemnify and/or to compensate the Bidder for any expense or loss incurred that may result from failure or omission relevant to the submission of the Bid via the SYSTEM, especially in case that BUYER terminates provisionally or extends or defers or suspends or cancels the Inquiry at any phase or time, due to a serious technical failure of the e-tendering SYSTEM.

19.4. BUYER and the provider of the e-tendering SYSTEM will have no responsibility or obligation whatsoever to indemnify and/or to compensate the Bidder for any expense or loss incurred that may result during acquisition of the necessary infrastructure and capability to submit an electronic Bid/Application and for the preparation and submission of the Bid/Application.

19.5. The Application is considered to be a proposal to the BUYER and not an acceptance of it by the latter. Therefore the FRAMEWORK AGREEMENT sample and other issues and documents imply that Bidders submit their Applications in accordance with the terms and provisions of those issues and documents that constitute an integral part of their Application.

19.6. The terms, conditions and limitations concerning the submission of Applications are to the benefit of the BUYER, who is entitled to proceed with any relevant change without any right on behalf of the Bidder or other third parties arising from this fact.

## **20. LOCAL LAWS AND REGULATIONS**

Bidder must be fully aware of local Laws, Regulations, Decrees, practices and other conditions in Greece, which might affect its Application and the performance of its obligations.

Failure of Bidder to become familiar with such matters shall not release it from its obligations.

## **21. CLARIFICATIONS**

If requested by BUYER, Bidders have to clarify any queries of the BUYER probably at BUYER's premises. Such meetings shall take place at any reasonable time between Application submission and FRAMEWORK AGREEMENT award. Bidders shall make their own arrangements for attending said meetings and bear the associated costs.

Bidders may request electronically, via the SYSTEM clarifications regarding the Inquiry Documents at any time up to fifteen (15) days prior to the Application due date.

BUYER will endeavour to reply, electronically, via the SYSTEM, to the requested clarifications not later than ten (10) days before the Application due date.

Both requests for clarifications and replies shall be submitted electronically, via the SYSTEM. The electronic file containing requests for clarifications shall be digitally signed.

Requests that are submitted by any means other than the above or that are not digitally signed as per art. 7 par. 3 note a, shall not be taken into consideration.

## **22. BUYER'S AMENDMENTS TO THE INQUIRY**

BUYER may issue electronically, via the SYSTEM amendments in the form of an Application Addendum at any stage during the Application period but not later than six (6) days before the initial Application due date and extend the time for submission of Applications equal to the initial FRAMEWORK AGREEMENT Notice following the provisions of par. 2 of Article 73 of the Directive.

**The Bidders shall confirm the inclusion in their Application of all clarifications/amendments issued prior to receipt of the Application by the BUYER.**

For clarifications/ amendments issued by BUYER subsequent to receipt of the Application, but in any way prior to the Application due Date, the Bidder shall be responsible for thoroughly examining the Application documents and incorporating the clarifications/amendments in his Application. Any failure by the Bidder to comply with the aforesaid clarifications or amendments issued by the BUYER, may be a reason for the rejection of his Application.

## **23. ATTACHED DOCUMENTS**

The following Annexes are attached herein and constitute integral part of present Instructions to Bidders:

**ANNEX I:** FORM OF APPLICATION LETTER



- ANNEX II:** FORM OF PARTICIPATION GUARANTEE & FORM OF PERFORMANCE BOND
- ANNEX III:** FORM OF GDPR STATEMENT
- ANNEX IV:** DRAFT OF FRAMEWORK AGREEMENT
- ANNEX V:** ALTERATION OF CODE FOR THE ADMINISTRATION OF THE NNGS (GOVERNMENT GAZETTE 788/B/07.03.2018)
- ANNEX VI:** REGULATION OF MEASUREMENTS (GOVERNMENT GAZETTE 584/B/06.05.2010)
- ANNEX VII:** REGULATION FOR THE CERTIFICATION OF LNG VESSELS
- ANNEX VIII:** LEGISLATIVE FRAMEWORK OF TENDERING PROCEDURES

**Ir. Angelopoulou  
Administrative Procurement  
Coordinating Department Manager**